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International Court of Justice

Official Transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 18 June 1946, 1000-1700, Lord Justice Lawrence Presiding.

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FRANZ VON PAPEN -- Resumed

DIRECT EXAMINATION--Continued.

BY DR. KUBUSCHOK:

Q The witness Guido Schmidt referred to an incident at Pinkfield in May 1937. Would you please describe your activities in settling that incident?

A That incident of Pinkfield is mentioned by myself or by my defense counsel because it is a typical example of Hitler's attempts, even during the days before 1938, to come to an aggressive policy in Austria.

On the 1st of May, 1937, in the small village of Pinkfield, a German flag was hauled down by an Austrian civil servant. There was great excitement in the press about it. I tried to settle the matter in a friendly way with the Foreign Minister of Austria. Thereupon I received a telegram to come to Berlin at once. I arrived in Berlin and reported to Hitler, but Hitler refused to see me. I waited three days and then, after three days, I wrote a letter and told him: "It appears that you are trying to use the flag incident of Pinkfield to conduct an aggressive policy in Austria. Therefore, there is nothing else for me to do and I am applying for your permission to resign."

A quarter of an hour later I was called to the Reich Chancellory by him. He gave me a lecture, which lasted half an hour. He was furious and almost out of his mind regarding the humiliations, he said, which the German Reich could not tolerate any longer.

After he had come to an end, I told him that our agreement of the 26th of June ruled that the policy with Austria was to be conducted in an evolutionary manner, and that the agreement of July 11th emphasized that. I said: "If you wish to conduct your policy differently, then dismiss me."

At this very serious conversation Hitler told me: "No, no. You go back and you settle everything; we don't want to change our peaceful policy."

I then returned to Vienna, and the incident was settled satisfactorily with the Austrian Foreign Minister within 24 hours.

Q Did you talk to representatives of other powers regarding the policy which you were pursuing?



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A Yes, I talked to representatives of other powers repeatedly about this policy. For instance, in the summer of 1937 I talked to the British Ambassador, Sir Neville Henderson.

THE PRESIDENT: Has this letter which the witness speaks of been produced, or a copy of it? He has spoken of a letter to Hitler: "I wrote a letter."

DR. KUBUSCHOK: No, we haven't got that one; we haven't got that letter, and neither have we a copy in the files, because the files of the witness were destroyed in Berlin through air attacks.

THE WITNESS: My Lord, perhaps I may add that the Foreign Minister of Austria has confirmed the incident and the course it took, in this room. Herr von Neurath also knows the incident intimately.

THE PRESIDENT: Who was the Foreign Minister who confirmed it?

THE WITNESS: The Austrian Foreign Minister Schmidt, who was here as a witness; witness Guido Schmidt.

THE PRESIDENT: Go on.

A (Continuing) Now, with reference to that question, may I remark that of course I talked to representatives of other powers about our Austrian Policy quite often. For instance, in June of 1937 I talked about it to



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Sir Neville Henderson, the British Ambassador to Berlin. In 1937 I visited Paris, incognito. There I talked to many of the leading politicians about the problem, among them the President of France, M. Daladier, and M. Leon Blum. I assured these gentlemen that a solution of the Austrian problem was being attempted by us on an evolutionary basis only, and that the joining of the two states which we were hoping for would never mean a threat to the interests of France. I said that, to the contrary, we were looking for that solution only, within the European framework; that is to say, with France's agreement.

At that time, I had the impression that in England, as well as in France, the realization was growing that the necessity for a settlement existed.

DR. KUBUSCHOK: As proof for the fact that the defendant could have been convinced that the other powers--based on an evolutionary development in Austria--might eventually be prepared to come to an agreement, I submit document number 74, at page 169. It is a report from von Papen to Hitler about the conversations which he has hinted at with Neville Henderson, on the 1st of June 1937.

I draw your attention to this document and should like to point out that Henderson has stated that he was well disposed towards a solution of the Austrian problem, and that he was hoping to exercise corresponding influence in Paris.

I also draw your attention to document number 80, at page 177. It is a statement of the Foreign Minister of Belgium, Spaak, after the Anschluss. I draw your attention to the last sentence: "I have believed for a long time that the Anschluss corresponds to the logic of facts, and if it had been accomplished in a normal way, I would not have been astounded by it".

BY DR. KUBUSCHOK:

Q. Mr. Messersmith alleges that the Nazi propaganda in Austria had been paid for with German funds. Did you ever raise



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or submit any funds for that purpose?

A. I personally, or through agencies of the German Embassy never paid a penny to the Austrian Party. It is perfectly possible, and even probable, that monies from the German Party flooded into Austria. But since, as is known, I did not enjoy the confidence of the Party in either country, I was never informed about any such transactions.

An exceptional reason I want to state emphatically is the collection of funds for that support fund which has already been mentioned here, the Langott support fund.

Q The Prosecution has accused you of being anti-Jewish, in connection with your report to Hitler on the 12th of May, in which you suggest that the Freedom Union should be supported financially with reference to its fight against Jewry. What was this Freedom Union?

A The Freedom Union was a collecting point for the former Christian Trade Union and the Christian Workers' Union. It was led by the president of the trad union. In 1934, Dollfuss had taken over its lead. It would be utterly ridiculous that this Freedom Union, which consisted mostly of Catholic workers, should be accused of an anti-Semitic attitude in the sense of the National Socialist attitude in that respect.

Something the Freedom Union did fight for was the cleansing of Vienna's administration of unsuitable Jewish elements. The question of this estrangement was very similar to the conditions existing in Germany at the time, and about which I spoke in detail yesterday. Apart from this, this report presented by the Prosecution shows that I had learned that the Czechs were wishing to establish close connections with this Freedom Union, and that, for this purpose, they wished to support the Freedom Union with considerable amounts of money.

Thereupon, I suggested to Hitler that this possible influencing of the Freedom Union through Czech politics should be eliminated by supporting it ourselves. But naturally we could not tell this Freedom Union, "We are now going to give you money so that you will not go over to the Czechs". For that reason, I proposed to Hitler that he should give these moneys with reference to the continuation of the fight of the Freedom Union against Jewry. This was camouflaged, in other words. If I had wanted to give this money for the fight against Jewry, then I should not have written "with reference to", but "for the continuation of the fight".

DR. KUBUSCHOK: I refer you to Document 32 on Page 112 of the document book. This is an excerpt from the Austrian Annual Book of 1933-1934, an official publication. I draw your attention to the beginning of the second paragraph, in which it is explained that the League for Freedom originated from the Cristian Worker's Union and the Christian Trade Union.



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I also draw your attention to the fifth from the last line, from which I quote:

"At the beginning of 1934, late federal chancellor, Dollfuss, took over the supreme Leadership of the League of Freedom".

I also draw your attention to Document No. 72 on Page 166. It is a report of von Papen to Hitler in which he quotes instructions from the Prague secret service. What is interesting in this connection is a reference to the fact that the freedom Union is working towards an understanding with social democracy.

The next document is No. 70. It has already been presented as GB 243.

I draw your attention to the first paragraph relating the efforts of the Czech diplomacy.

This is Document 70, on Page 164. This is the document which has been submitted by the prosecution under GB 243, at least part of it. The first paragraph is important, mentioning the activities of Czech diplomacy, Just as the defendant mentioned it a few minutes ago.

Furthermore, with reference to this Freedom Union, there is a report of von Papen contained on Page 167, Document No. 73. I merely want to draw your attention to it.

Another report of von Papen is interesting, Document 69, Page 163. It shows that there were efforts to include the Freedom Union in the political constellation of that time.

BY DR. KUBUSCHOK:

Q Mr. Witness, in the summer of 1937, Schuschnigg was making efforts to get the national opposition to collaborate. What do you know about it, and what were the further developments?

A In the summer of 1937, Schuschnigg was making efforts to keep the promise that the national opposition should be brought in to collaborate. The visit of Minister Glaise-Horstenau to Hitler in June, 1937, took place with Schushnigg's agreement. Later he founded the so-called 7-man committee with Dr. Jury and Tofe.

The choice of persons, which he made took place without my participating in any way.

But regarding this 7-man committee, I should like to make this statement. Obviously these pacifying measures of the chancellor were not far reaching enough

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for the party in Austria, or they were too slow. The Austrian police found, in November of 1937, in the office of this 7-man committee, papers known under the name of Tofs Papers, which indicated there were new, illegal, and radical intentions. The Austrian Government did not in anyway inform me of these papers, and no official demarche took place. But I did learn that amongst these papers there was a plan of assassination against me. The proposal was made that there should be an attempt on my life, and that for that reason there should then be a march into Austria.

The Austrian foreign minister, Schmidt, confirmed this fact the day before yesterday in this court room, and it appears to me that this proposal, this plan against me, seems the best probable proof of just how much harmony existed between my policy and that of the Austrian or German National Socialists.

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At that time I was very pleased that the Austrian Chancellor was including Dr. Seyss-Inquart, who was known to me, into this pacification work. I consider it is fair for me to make a correction in this connection. The Austrian Foreign Minister has reported about a conversation which he had with me in October, '34 at Ankara. I told him at that time -- and I have repeated it during my interrogations here before the trial -- that Dr. Seyss-Inquart had been the greatest disappointment of my life. I assumed that it had been he who, after the march into Austria of the German troops on the 11th of March, was the responsible party for the Nazification of Austria after the Anschluss. I have to correct that judgment of mine after having gained the knowledge which we have today on the strength of documents.

Q Then at the end of 1936 your first official who was recalled from Vienna was Prince Erbach. His successor was an embassy councilor, von Stein. Since, after you had been recalled on February the 4th, 1938, he took over your office, it would be interesting to know what his attitude was towards both the party and you.

A Later on I learned that Councilor of the Embassy Baron von Stein was appointed to the embassy's council by special request of the party because he could carry out, or was to carry out control over my policy in the sense of the party. Herr von Stein was an ardent National Socialist. His relationship to me was entirely different to that I had with his predecessor, Erbach, but I want to state that during that period, too, I continued to pursue my original political line and that von Stein merely had the running of the technical affairs.

Q The Hoszbach document of November 5, '34 has been mentioned frequently --

THE PRESIDENT: Dr. Kubuschok, the translation came through "'34". It was '37, wasn't it?

DR. KUBUSCHOK: '37, My Lord, yes, 5th of November, '37.

BY DR. KUBUSCHOK:

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Q Did you know about this conference at Berchtesgaden which forms the basis for this document?

A Of this sensational conference and this very important document of the prosecution I did, of course, never have as much as a hint. The first time I have seen the document was here in this court room. But if I may be permitted to say something in connection with this document, then it is this: The connection between events of the 11th of March and this document appear to me to be rather loose just the same, because this document indicates that Hitler was only intending to carry out the march into Austria by force -- that is the Anschluss -- if the constellation in Europe would make this possible. He expected this constellation to be apparent in the years '43 to '45.

THE PRESIDENT: Dr. Kubuschok, this is mere argument, isn't it? He says he never saw the document until he came into this court. He is now arguing to us about his connection with the events of March, 1938. Well, that is a matter for you, not for the defendant.

DR. KUBUSCHOK: Very well then, I shall deal with that later.

BY DR. KUBUSCHOK:

Q Mr. Witness, on the 4th of February, 1938, you were dismissed from your post in Vienna, much to your surprise. Please will you report the details of this to the Tribunal?

A At the end of January of 1938 I had been to Berlin to see Hitler. I had talked to him about the conversation which I had had with Dr. Seyss-Inquart at Garmisch and there were no indications of any kind that he intended to dismiss me from his service. That was communicated to me by telephone by Dr. Lammers on the 4th of February. The sudden and for me unfounded dismissal in connection with von Fritsche's and Bromberg's dismissal and the dismissal of other leading diplomats led, of course, to one final conclusion. I was quite aware of the fact that with this recall there was a change, of course, which was at least probable. The

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following day I talked about this to the Austrian Foreign Ministe and I communicated my worries to him. Subsequently, in a note to the Austrian government, I took leave of them. Then the following day -- I beg your pardon. First of all I have to say this: This development, through my being recalled, appeared so serious to me that in the evening of the 4th I decided that my entire political reports, made during those four years, should be removed into Switzerland. I wanted to be in a position to prove to the world that I, during those four years, had pursued a peaceful and evolutionary policy in Austria; I wanted to be in a position to prove this to the outside world if it should happen that Hitler would commit an aggression. The decision, particularly for a high official to do this, was certainly not easy, because I would have to bear all consequences which this prohibitive file might bring. Subsequent to that, I went to Hitler. I felt the urge to tell him that even if he didn't want me any more, then he should at least find another reasonable and moderate man and send him to Austria. During the discussion which I had with him he did not speak about the reasons for which he was dismissing me. I had suspected that this had been a wish of Herr von Ribbentrop, who had become Foreign Minister on this 4th of February, but Hitler told me that this was not the case. During the discussion about the Austrian situation, I told Hitler, among other things, that I regretted very much that he had recalled me because, particularly during recent weeks, Chancellor Schuschnigg had declared himself prepared to have a personal conference with Hitler during which all differences between the two states should be removed as far as possible. When Hitler heard this, he told me: "If that is the case, then I should be very glad if you would go back to arrange for this discussion with Herr von Schuschnigg." I told him: "That is rather a peculiar task. Yesterday you have recalled me and today you want me to go back, but of course, if there is something I can do in the interest of this Austrian p[illegible]n, if I can bring about such a discussion I am only too willing to do it."

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Q. And how did you prepare that conference?

A. After my return, I went to see von Schuschnigg, and I discussed with him, too, the changed situation which had occurred with my recalling and the replacement in the post of the German minister. I told Herr von Schuschnigg that it appeared to me that in that situation a discussion between the two heads of state regarding the differences which had arisen from the interpretation of the July agreement could only be extremely helpful. The Austrian Foreign Minister, of course, has confirmed here that regarding this personal discussion we had had preliminary conferences since November 1937.

The proposal was that in Berchtesgaden there should be talks about every one of the differences. A definite program was not drafted. It was arranged that these conferences should take place entirely on the basis of the July agreement, that is to say that there should be the basis of the maintenance of Austrian sovereignty. The only definite question was this one, the inclusion of a minister into the Autrian cabinet who should be the liaison man of the two states and have the task of taking care of the pacification between the Austrian and German National Socialist Party. That is to say, intervention or interference of the German party with Austrian conditions in the future should thus be made impossible.

Later on, during the conferences at Berchtesgaden, it was demanded that Dr. Seyss-Inquart should receive the Ministry of Security. That demand was entirely unknown to me, and I did not discuss it with Schuschnigg either. It was merely mentioned that a stuiable man, possible Seyss-Inquart, should be given the Ministry of the Interior. Today we know from the testimony of witnesses that besides that official conference which I had, there was the Austrian Party courier who took proposals to Hitler, but proposals that were unknown to me.

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Q. Please will you describe the discussions, the conferences at Berchtesgaden.

A. These conferences have already been repeatedly described here. I accompanied Mr. Schuschnigg and Mr. Schmidt there personally, and it is perfectly possible that when I received them at the German border I told them that apart from Hitler, they might probably find one or several generals up there, because quite possibly I had talked to Berchtesgaden on the telephone in the morning and found out that these generals would be present.

The conferences proceeded very differently from customary conferences in normal diplomatic life, but it wasn't quite as dramatic as has been described here by various sources. To my knowledge, these generals who were called in by Hitler the evening before and without my knowledge, did only have effect merely by their presence, and were meant to have that sort of effect. They were not, as far as I know, called into the political conferences, at least not as far as I participated in such political discussions.

The tone in which Hitler was negotiating, the accusations which he raised against von Schuschnigg, were most unpleasant to my mind, and for that reason I acted as an intermediary repeatedly. I remember very well an incident which happened when Hitler and Schuschnigg were alone together, and when the discussion became extraordinarily loud, I entered the conference room to find that Hitler was accusing Herr von Schuschnigg of not being a German man, of lacking any national feeling, so I found it necessary to intervene and tell Herr Hitler, "You are misjudging Herr von Schuschnigg entirely. Herr von Schuschnigg's thiking is just as German as yours and mine, only he doesn't want the joining of our two countries under the doctrine of state which you are at present representing in Germany."

During this conference, a program was submitted to Herr von Schuschnigg and Herr Speck which was unknown to me personally,

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as I have already said. A number of points were removed from that program after negotiations, as, for instance, the staffing of the Austrian army with General von Tass, and all economic demands, so that when towards the evening the conferences were coming to an end, I told Herr von Schuschnigg that he had better accept the remainder so that our further peaceful development should not be disturbed.

Apart from this, von Schuschnigg only made the s[illegible] reservation in connection with this program that the agreement as such would have to be confirmed by the Austrian Government and the Austrian Chancellor [illegible], so that possibilities for corrections on the part of Austria perfectly obviously existed afterwards.

Q. In one point your story has not been quite clear. Did you arrive simultaneously with Dr. Schuschnigg and Dr. Schmidt at Berchtesgaden, or were you there before, or had you spent the night elsewhere?

A. No, I traveled from Vienna to Salzburg with von Schuschnigg. I spent the night with him there, and together with him I went to Berchtesgaden on the following morning. In other words, I had not been to Berchtesgaden previously.

However, von Schuschnigg has alleged that the morning before our visit I told him that generals were up there. I cannot remember that, but it is possible, because it may be that I put a telephone call through from Salzburg in the morning, during which I was informed of it.

Q. Then, there is one more point which we must supplement in this connection. Schschnigg says that you received him at the border. Perhaps you can elucidate on that point.

A. Von Schuschnigg and I had spent the night together in Salzburg, as I have said. The next morning I went ahead as far as the border, and on the German border I waited for him.

Q. Well then, how did the Berchtesgaden agreement differ from the 11th of July agreement?

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A. The result of the Berchtesgaden arrangement was certainly an enlargement of the agreement of July, but the actual basis of the July agreement, its principles, that is to say, the maintenance of Austria's sovereignty, was not departed from at all. This is confirmed in the two communiques from the two governments which were issued on the occasion of the acceptance of the agreement.

DR. KUBUSCHOK: In this connection, I draw the attention of the Tribunal to Document No.78 on page 174, which is the official communique.

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I also draw your attention to document 79 on page 175, which is the Reichstag speech Hitler delivered on the 20 of February with reference to this subject.

BY DR. KUBUSCHOK:

Q. On the 26th of February you paid an official farewell visit to Schuschnigg. The Prosecution have presented a file reference, a file note in this connection. Please will you speak about this farewell visit?

A. This note from the files obviously is what I had communicated to von Ribbentrop by telephone regarding this farewell visit of mine. In this note I draw the attention of the Foreign Office to the fact --

THE PRESIDENT: What is the date of this note?

DR. KUBUSCHOK: The file note is dated 26 February and was submitted by the Prosecution.

SIR DAVID MAXWELL-FYFE: Document book 11A, page 1.

THE WITNESS: In this file memorandum I mention the pressure brought to bear on Schuschnigg under which he acted as well as the fact that I am communicating this to the Foreign Office to indicate that I dissapproved of this pressure otherwise I would not have made a report about it. On the 26 of February my temporary activities had then also come to an end.

BY DR. KUBUSCHOK:

Q. On the 9th of March, 1938, Schuschnigg proclaimed the plebiscite. Please will you speak about this?

A. The plebiscite announced by Schuschnigg was, of course, a complete surprise. In my view it was contrary to the spirit of the matters which had been agreed upon at Berchtesgaden and contrary to the tendency of a peaceful settlement of the tension. The plebiscite was a violation of the Austrian constitution too. It had not been passed by the Austrian government. It was a spontaneous measure of the Austrian Federal Chancellor and it was quite clear in my opinion that those elements in Austria who were in favor of a joining together of the two states would be most displeased with this plebisc

Q. The witness Raeder during his testimony and in the speech which was quoted, has said that on the evening of March 9 he had been to your apartment

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Are we here concerned with a pre-arranged conference or a conference at all or an exchange of views?

A. Not at all. I was absent from Vienna from the evening of the 26th, as far as I remember, until the 9th of March. On that day I returned to Vienna and it is perfectly possible that these gentlemen came to my embassy and talked to me. There was no question of there being anything pre-arranged on my part.

Q. Were you in Berlin on the 11th of March?

A. On the evening of the 10th a telephone call reached me at the embassy coming from the Reichschancellory with an order from Hitler that on that same night I was to come to Berlin at once. I flew to Berlin the following morning and approximately between nine and ten in the morning I arrived at the Reichschancellory. Why Hitler sent for me I do not know. I assumed that as this crisis developed he might wish my advice. Possibly he may have discovered that my presence in Vienna might interfere with his plans. At any rate on this fateful day, the 11th of March, I found myself in Berlin and in the Reichschancellory.

I met Hitler surrounded by numerous ministers, including Goering, Dr. Goebbels, Neurath, secretaries of state and some military persons. He greeted me with the words:

"The situation regarding Austria is intolerable. Von Schuschnigg is committing treason against the German idea and we cannot agree to this plebiscite by force."

And when I see his tremendous excitement I remind him again of his promise given to me by him at Beyreuth. I warn him urgently against hasty decisions but on that morning he told me:

"Either the plebiscite is cancelled or the government will have to resign.

We know from the letter sent to Dr. Seyss by a special courier of this ultimatum submitted to the Austrian government. At that time he did not inform me of this active intervention on his part. Then the day went on.

I, together with most of the persons who were present, remained in the large hall while Hitler, together with Goering, telephoned from his private

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office. What was telephoned is something we, who were waiting in the large hall, could only gather by means of fragments, but, of course, today we know it from the documents that we have seen.

There is only one incident which I want to bring up. It was five o'clock in the afternoon. The report was received from Vienna that Schuschnigg's government was prepared to resign. Thereupon, I pressed Hitler that he should now cancel his military orders. Hitler did that. Between five and six o'clock in the afternoon the order was given to the military forces, which had been preparing, cancelling previous orders. On that occasion I congratulated Generals Keitel and Brauchitsch, who were present, that we were saved from that affair. But one hour later the situation was once more entirely different, when a telephone call came through from Vienna stating that the Federal President refused to nominate a government headed by Seyss-Inquart and then Hitler renewed his orders to the troops.

Following that it was said late in the evening that the Austrian government had requested that German troops should march in since otherwise they could not continue to control the situation. I can still see von Neurath standing next to me telling me:

"This is so important a report from Vienna that we have got to have it in wiritng."

We were under the impression, therefore, that this calling for assistance comes to us from Vienna and the further events of the evening are known and I can only say that I personally was deeply shaken by the solution because it was perfectly clear that if one were to use the army to march into Austria then there could be incidents and there could be blookshed. A renewed bloodshed between our two nations would not only once more compromise the interests of Germany but it would also make the worst possible impression in Europe about the leaders and the conduct of German policy.

DR. KUBUSCHOK: In this connection I draw your attention to document 97 on page 241 of the third document book. I beg your pardon, I have noticed it is not yet contained in the book, it is just being presented -- document 97, page 241. It is an affidavit of Thoss, who was a friend of the witness von

Papen and who talked to him on the evening of March 11th.

I quote approximately from the middle of the document:

"On the 11th of March, 1938, at the beginning of the march of German troops into Austria, Herr von Papen appeared at the Union Club late in the evening where he very excitedly and despairingly declared:

'I am just coming from the Reichschancellory. I tried to talk Hitler out of the march into Austria and strongly advised against it. But he is committing the madness and just gave the orders for the march into Austria.'

BY DR. KUBUSCHOK:

Q. Did you, Mr. Witness, know anything about the military plan "Case Otto"?

A. The first time I heard about the "Action Otto" was during this trial. Just one moment. This "Case Otto", as it is known, was a theoretical preparation for Germany's march into Austria, in the event of, because of the restoration of the Hapsburgs, the Czechs and Hungarians marching into Austria.

THE PRESIDENT: This is exactly what the defendant was doing just now when I interrupted you. He said he did not know anything about the document and he is now trying to explain it. This is argument, not evidence.

DR. KUBUSCHOK: Yes, quite, Mr. President.

BY DR. KUBUSCHOK:

Q. Let us pass on to the next question.

Just previously you had mentioned that you had decided that the files, which were the documentary proof for the activities in Vienna were to be taken to Switzerland by you. Was this actually carried out by you later on?



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A Yes, that was done. My Secretary von Ketteler, took these files to Switzerland at the beginning of March 1938.

Q Will you please describe briefly the circumstances of the assassination of your official, Baron von Ketteler after the March of the German troops into Austria? What did you do toward having that case cleared up?

A During the days of the march into Austria, at Vienna my secretary, von Ketteler, had suddenly disappeared. I alarmed the Viennese police at once, as well as Himmler, Heydrich, and DR. Kaltenbrunner. I was promised that there wou be an investigayion, and for a long time that investigation was without success Originally I had assumed that von Ketteler, since his relations with the Austri Party had been very bad, had fled, but then a few weeks later it transpired tha von Kettelers' body was found in the River Danube below Vienna.

I made a report to the Public Prosecutor for murder against an unknown person. Upon my intervention, I requested that the body should be examined, and t brought the result that were no signs of any death by force.

In spite of that, I am perfectly aware of the fact that this new action wa an act of revenge of the Gestapo against me, my policies, and my friends.

I therefore addressed myself to Goering, under whose command the Gestapo w and asked for his assistance. Goering demands the files from the Gestapo and te me that there is proof that von Ketteler had prepared an attempt on Hitler's lif I state that that is quite out of the question, but then it is ascertained by Goering through the Gestapo that I had taken my files to Switzerland and that Herr von Ketteler had assited in that connection. Goering promises me to negotiate with Hitler and to demand that the Gestapo people who had taken part in this case should be punished. I believe that he actually did that, but sucess upon his intervention was lacking.

Q After your departure from Vienna you retired into private life. Did you have renewed offers for posts abroad?

A Yes, I retired into private life, since, after 30 June, my experiences, as in Austria, were not such that I could have aimed at a new post. I can only say that during the subsequent time, von Ribbentrop asked me twice to go to Ankarra as an ambassador, and that twice I refused.

Q And then, as a last question with reference to Austria, I want to ask you, Did Hitler award the Golden Party Emblem to you after the march into Vienna



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Will you please tell us about that?

A That is correct. As we know, it was Hitler's habit after sudden dismissals--and he dismissed me abruptly on 4 February and solved the Austrian question without me--that for the outside world he used to camouflage such acts by friendly letters and decorations.

Perhaps I should have turned down that Golden Party Emblem at that time, because I was no longer in an official position,



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and therefore, there was no reason why I should have accepted it. However, my position during those days was so difficult that I did not want to make it any worse. My official, Kettler, had disappeared, and I had to expect that I might be involved in an official trial because I had removed my files to Switzerland. Thus, I accepted the Emblem, but I deny that by so doing, my membership in the Party is established. I believe that no one who knows me--even amongst the gentlemen in this dock with me--could possibly state that ever in my life have I been a National Socialist.

DR. KUBUSCHOK: Mr. President, I shall now come to a very brief period during the activities in Turkey. Should I start that now?

THE PRESIDENT: Why is it necessary to go into the affairs after the Anschluss in March 1938, in view of what the Prosecution has stated? I mean, does it throw any light upon the past? As I understand it--

DR. KUBUSCHOK: Mr. President, I have completed the entire Austrian complex of questions. I now have to deal only with a very brief subject, which is the defendant's activities during his time as ambassador to Ankarra, and I am asking you whether this would be a suitable moment to begin with this part, or whether you now, Mr. President, wish to have the recess. I shall be completely through with this in an hour.

MR. PRESIDENT: I will in a moment, but what I was asking you was Why is it necessary to go into the history of the defendant in Ankarra in view of what the Prosecution have said with reference to their charges against the defendant? As I understand it, the Prosecution have said that they make no charges againstthe defendant in connection with his work at Ankarra. Unless the history of that time throws light upon the past, upon the time up to March 1938, it does not appear to be relevant to this trial.

DR. KUBUSCHOK: In discussing his activities in Turkey, I shall confine myself to very few points, and, quite rightly, they



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are only to throw light upon the previous activities of the defendant von Papen. The evidence will, therefore, refer to the fact that in that time the defendant made it quite clear that he was a definite opponent of this war in every one of its phases, and that in every phase of this war he was merely trying to achieve peace. This material from the period in Turkey, is, therefore, t o be rebuttal for the accusation that previously the defendant had been in anyway an active participant in the policy for war.

We shall have to paint a complete picture of a man who is under the indictment of conspiracy. If he, in an official post, immediately before the outbreak of war, and during the war, committed certain acts, we must then investigate whether his attitude during that time does not precisely disprove the statement by the Prosecution that before that he had been connected with the plans which were actually carried out during the time he was active in Turkey. The questions are brief.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken).



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BY DR. KUBUSCHOK:

Q In April 1939, under what circumstances were you appointed Ambassador to Ankara? Why did you accept this post?

A I accepted the post after I had refused it twice, under quite extraordinary circumstances. On the day of the occupation of Albania by Italy, Mr. von Ribbentrop called me up and urged me to come to Berlin. There, he explained to me that the post in Ankara, which had been vacant for six months, would immediately have to be filled because of the complications which had arisen from the occupation of Albania in the Southeast, which could arise from the occupation of Albania. Before I accepted this post, I considered carefully whether I could do anything for the Hitler government again, whether I had to do anything. Since the 15th of March, the entry into Prague, we knew that we were sitting on a powder keg. In this European question there were two possibilities of conflict; one was the Polish question. I could do nothing in that. The other was the Southeast question which had became acute through the occupation of Albania. I felt that I could do something here in order to contribute to the maintenance of European peace. For that reason, I offered my services at this moment to go to Ankara.

Q First you went to Ankara to obtain information, to clear up the situation there, and then in a written and oral report you explained your opinion. Please comment on this.

A In Ankara, I immediately obtained a picture of the political situation because I knew all the leading personalities there. As a result --

THE PRESIDENT: Dr. Kubuschok, you aren't proposing to take the defendant through all the intricacies of Turkish politics, are you?

DR. KUBUSCHOK: No, that is not my intention, Mr. President. The defendant made a report in Berlin not only to Hitler but also to other agencies. The content of this report shows positive activity for the maintenance of peace. That is why I went into this

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question.

THE PRESIDENT: Have you got the report?

DR. KUBUSCHOK: No, this report was also in the files of the Foreign office to which I do not have access.

THE PRESIDENT: Well, then, you better deal with the subject but deal with it shortly.

DR. KUBUSCHOK: Yes.

THE WITNESS: I will be very brief. I came back from Turke I told Hitler in a report what had to be done in order to maintain European peace. I sent this memorandum to Keitel and Brauchitsch as well. I stated in this report that it was necess in order to keep peace in the Southeastern area, for Italy immediately to give promises to withdraw her military forces from Albania and to adjust her relationship with Turkey in order to prevent any doubt of the uprightness of the Italian policy. A very lively discussion arose on this question between Count Ciano and I. Count Ciano was in Berlin on this day to sign the German-Italian Alliance. When I made my suggestions to him, he was indignant at the implication and complained to Mr. von Ribbentrop about me. A lively discussion with Mr. von Ribbentrop followed. He told me that he was in charge of German foreign policy and not I and that it was not my task to make suggestions about keeping peace. Then I offered my resignation to von Ribbentrop. I told him it was useless under such circumstances for me to be sent to Ankara but Mr. von Ribbentrop withdrew his statement and I went back.

BY DR. KUBUSCHOK:

Q In this report, did you warn in general against a war, and what reasons did you give for this warning?

A The memorandum which I gave to General Keitel and Gener Brauchitsch contained a military presentation of the situation. I stated that the beginning of a war about the Polish Corridor would of necessity lead to a world war. If such a world war were to break out, Germany's situation was hopeless, for there was no

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doubt that England would keep her promise to Poland and that England and France would join Poland.

Q What was your reaction to the news about the outbreak of war on the 1st of September 1939?

A When I received the news of the outbreak of the Polish war in Ankara, I was astonished. I hoped that Hitler would avoid this step which would plunge us into the greatest misfortune.

Q I refer to document 14, page 62, an affidavit of the private secretary of the witness von Papen. I will quote a passage on page 64, the second paragraph from the end:

"The radio announcement of the outbreak of war was heard by me at the Embassy at Ankara together with the Ambassador and all the other colleagues. Afterwards I walked across the Embassy Park with the Ambassador. The Ambassador was extraordinarily excited and shaken. I had never seen him like this before, not even in the darkest days of the 30 June 1934 and not even after the murder of his friend Ketteler. That is why I can recall exactly every word which the Ambassador said to me on that occasion 'Remember my words: To have provoked this war is the greatest crime and the greatest madness which Hitler and his people could possibly have committed. Germany can never win this war. All will be buried under the ruins!".

Witness, what were your decisions for the future?

A What could I do? I could either protest---then in order not to be shot as a traitor in Germany, I would have to remain abroad. I could emigrate. I would never have done that, for I always found that one can work better in one's own country than as an emigrant. I could resign. Then I would return to Germany and become a soldier. The best thing, it seemed to me, was to remain where I was and where I could help my fatherland.

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Q Now I speak of your various efforts towards peace. Please describe first your negotiations with the Dutch delegate, Dr. Visser.

A Immediately after the Polish campaign I had negotiations with the Dutch delegate in Ankara at that time, Dr. Visser. He declared himself willing to have his foreign minister mediate in London. The condition for a peace would naturally, of course, have been the restoration of Poland, with a corresponding adjustment of the Corridor question.

I reported this possibility for peace negotiations to Mr. von Ribbentrop, but it seemed to me that it was not followed up in Berlin. For that reason, in November of 1939, I went to Berlin personally. Mr. von Ribbentrop told me: "The Fuehrer does not want to hear anything of peace negotiations; please do not take any more steps."

Nevertheless, I went to Hitler. I reported the Dutch offer to him and expressed the wish of the Dutch delegate, Dr. Visser, to come to Berlin personally. Unfortunately, Hitler rejected all of my arguments.

DR. KUBUSCHOK: I wish to point out that with the approval of the Court a questionnaire was sent to Mr. Visser, but the questionnaire has not yet been received.

BY DR. KUBUSCHOK:

Q In 1939 did you make further suggestions towards ending the war? I am thinking of a report on the restoration of legal life in Germany.

A Yes. In December of 1939 I sent a detailed report to Mr. von Ribbentrop, for Hitler. In this report I said that the first condition for any peace and for any willingness of other countries to conclude peace would be a change in the present government methods in Germany; that is, a return to constitutional methods in Germany. I then told Hitler: "If you do this, you will have more credit abroad, and it may be possible to begin peace negotiations."

Q What were the instructions which you received from Berlin in regard to peace efforts, and what did you do nevertheless?

A The Reich Foreign Minister repeatedly issued strict orddrs, under no circumstances to undertake or to make any peace feelers; such attempts, in the opinion of the Foreign Office, would be a sign of weakness.

I did not observe this ruling because I was determined, on my own initiative, to do everything to shorten the war. For that reason, in the

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spring of 1941, before the Balkan crisis, I addressed his Majesty, the King of Sweden, with a request to begin peace mediation. I also asked the President of Turkey, Ismet Inonue, to consider the possibilities of mediation, and President Inonue promised to do so. His Majesty the King of Sweden refused, and said that he did not consider the situation suited for such efforts. The Turkish President asked only that he should be officially requested to mediate, but that, of course, was not done.

Q What did you think about the events of the 10th of May, 1940, the entry of German troops into Holland and Belgium, and what did you do?

A On the 10th of May, 1940, I had the impression which had dominated the whole first World War, why Germany violated Belgium neutrality. Itwas completely incomprehensible to me that this psychological mistake should be repeated. I expressed this opinion in a letter which I sent, on the 10th of May, to the Dutch delegate, Dr. Visser.

Q What did you do in order to avoid the spread of war in the Balkans?

A When the Yugoslav crisis broke out and our troops marched through Bulgaria, I asked Hitler to send a personal letter to the Turkish President. In this letter he assured the Turkish President that under no circumstances did he intend to fight Turkey, and for that reason he had ordered the German troops to remain 40 kilometers away from the Turkish border.

Q In June of 1941 you concluded a treaty of friendship with Turkey. Will you briefly give the reasons for that?

A The reason was very simple: to limit the war. Turkey was to know that in spite of our alliance with Italy, in spite of the war in the Balkans, in spite of the war with Greece, we would never threaten Turkey. Turkey was also to know that we would not attempt to advance through Turkey to the Suez Canal.

The negotiations were very long and difficult because Mr. von Ribbentrop did not want this treaty to mention Turkey's alliances with the Allies. I then pointed out to Mr. von Ribbentrop that the Turks were in the habit of keeping their treaties.

Q Did you know of Hitler's intentions against Russia? What did you think about the war?

A The beginning of the war with Russia was, of course a complete surprise to us. We had heard of the massing of troops on both sides but, of

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course, I assumed and hoped that Hitler would keep his pact with Russia and that he would not begin this war.

I considered the beginning of the war against Russia, from the point of view of German as well as European interests, as a crime.

Q In the fall of 1943, after you returned from a visit in Germany, did you continue your efforts towards peace?

A In the fall of 1943, after Stalingrad, it had become clear that no peace could be established with the Hitler Government. My friends and I--including military friends--discussed this question. In the fall of 1943 I was initiated into the so-called Beck plan, which has been mentioned here by the witness Gisevius. This plan, at that time, did not intend to eliminate Hitler through an attack on his life, but the intention was to have his headquarters surrounded by troops and then to try Hitler. The reasons for this were obvious. Even if many generals were of the opinion that this war had to come to an end, they were afraid of taking action against Hitler because they were of the opinion that Hitler still had great prestige.

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Moreover, there was the further difficulty that if Hitler had been removed, no one knew what the allies would do with us.

THE PRESIDENT: The Tribunal thinks this should be taken more shortly Dr. Kubuschok.

THE WITNESS: I shall be very brief. As a result of all these considerations, I attempted tolearn what the allies would do with Germany in such a case. For this purpose, I turned to the American Minister Earl, who reported on the matter to the press.

DR. KUBUSCHOK: I refer to Document 93, Page 214. This is the interrogatory of Freiherr von Lersner, whom I wanted to call as a witness, but who could not come because of transportation difficulties. On Page 214, the answer to question 7 is:

"My activities for the mediation of peace negotiations were always based on my own initiative and extended to the attempt of the mediation of general world peace between all belligerent countries. Prior to all steps towards peace, I engaged in detailed discussions with Ambassador von Papen and was always supported by him to the utmost extent with verve, although every peace-step was forbidden to him and was at least just as perilous to his life as to myself. He also brought me together with a number of foreigners, above all with the Apostolic Delegate to Istanbul, Archbishop Roncalli.

"When in 1942 I resolved to travel to the Vatican, Ambassador von Papen not only urgently advised me to make the journey but also personally procured all the necessary papers and passports for me to Rome, where in spite of the special, express prohibition of the Reich Government I suggested a world-peace drive of Pope Pius XIII with all belligerent powers to Cardinal Maglione and the diplomatic director of the Curia, Bishop Montini.

"When in April, 1944, the opportunity presented itself to me to establish contact with George Earl, former ambassador to Vienna and Sofia, the friend of President Roosevelt with whom I had already been personally acquainted for a long time, Papen again helped me in every possible way. He even took it upon himself --"

THE PRESIDENT: (Interposing) These are details. Is it not sufficient to say that the defendant said that he endeavored in every way to

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make peace? Then you can refer, if you like, to any interrogatories or affidavits which confirm what the defendant says.

DR. KUBUSCHOK: Very well. I will not read any further this answer to Question 8.

Then I refer to Document 94, Page 217, a letter of the witness Lersner to Mr. Kirkpatrick. He points out in the letter that in 1939, already, the defendant von Papen intended to bring Lersner to Turkey, so that on the basis of his international connections he could work towards peace. He describes the difficulties in connection with this plan, which, however, was carried out by Papen. The letter also describes further peace efforts with Admiral Horthy and King Boris of Bulgaria.

I should like briefly to discuss the questions brought by the witness Gisevius and to bring documents in support of that. I wish to prove that von Papen wasnot received unfavorably in a circle of conspirators of the 20th of July, but on the contrary that he was promised the office of a foreign minister.

I refer to the affidavit of Count Bismarck, Document 90, Page 201. Count Bismarck, in the course of the events of the 20th of July, was sent to a concentration camp. This is to explain the character of the witness. In Document 90 Bismarck points out that in case of a change of government, Papen placed himself at their disposal. News was sent to Herr von Trott, who worked in the Foreign Office. Trott was condemned to death following the events of the 20th of July.

Finally I refer to Document 89, Page 199, a letter of Pfeil to the son of the witness von Papen. Pfeil points out that Count Stauffenberg intended to have the defendant made foreign minister later.

The court has already permitted the submission of this letter.

BY DR. KUBUSCHOK:

Q Witness, what was your attitude during your period in Turkey towards the Party?

A My attitude towards the Party was extraordinarily poor. For years I waged a battle with the Landesgruppenleiter of the Party in Turkey. This man told my embassy officials, "Mr. von Papen belongs in a concentration camp, or he must be shot."

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I had a long struggle to have this man removed.

Q What did you do during that time regarding church matters?

A During the war I did everything in my power to uphold and increase my position with respect to the Church. That means that I took all such institutions in Turkey under my personal protection.

DR. KUBUSCHOK: I refer to Document 53, Page 141 and Document 51, Page 138.

BY DR. KUBUSCHOK:

Q What did you do with respect to the Jewish question during your period in Turkey?

A I opposed all measures of the German Reich government against German Jews. A long party trial took place because German members of my embassy had consulted a Jewish doctor. I defended these officials of mine against this charge, and I refused to take the passports from the German Jews in Turkey and to deprive them of their citizenship.

DR. KUBUSCHOK: I refer to Document 95, Page 227. This is the interrogatory of Professor Marchionini. In questions 4, 5, and 6 it discusses this problem. The answer to Question 6, the last paragraph, is so noteworthy; yet, on the other hand, the witness von Papen has not yet mentioned it.

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I should like to quote it. Page 229, the last paragraph of the answer to Question 6: "I remember particularly clearly an incident in spring of 1944, when I called upon von Papen at the request of Herr Barlas, the Refugee's Commissioner of the Jewish Agency, in order to request his assistance in saving 10,000 Jews in France from deportation to Poland for extermination. These Jews had formerly held Turkish nationality which they had later renounced. Herr von Papen complied with my wish and through is intervention the lives of these Jews were saved, which I learned a short time later from Mr. Barlas himself."

I continue: "Details of this incident, with which Mr. Steinhardt, then United States Ambassador in Ankara, Mr. Numan Menemencioglo, then Foreign Minister of Turkey, were acquainted, can be obtained by questioning Herr Baslas."

THE PRESIDENT: I would like to point out to you again, Dr. Kubuschok, that you have taken very much longer than you said you were going to take.

DR. KUBUSCHOK: In a very few minutes I will be finished, Mr. President.

BY DR. KUBUSCHOK:

Q I ask the last question. When, on the 2nd of August, 1944, Turkey broke off relations with Germany, why did you return to Germany? Why did you not remain in Turkey and why did you not separate finally from Germany?

A I can state that, on the day on which relations between Turkey and Germany were broken off, the English Prime Minister, Mr. Churchill, said the following in the House of Commons: "The breaking off of relations between Turkey and Germany will have many consequences, including consequences for Mr. von Papen. On the 30th of June he escaped the blood bath. This time he will not succeed."As a result, I received requests from the Allies to remain in Turkey. I refused to do so. I said: "I shall return to Germany where I belong. I will not emigrate. Perhaps it will still be possible to do something for my Fatherland." And so I returned to Germany. When I arrived there I observed that, as a result of the terror methods which had been launchdd after the 20th of July, there was no possibility to do anything at all. For the rest of the time a Gestapo guard was placed before

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my door.

DR. KUBUSCHOK: I refer to Document 95, Page226, which has already been mentioned, the interrogatory of Professor Marchionini. I refer to the answer to Question 3. I should like very briefly to read the last half of this answer in connection with the problem just mentioned by the witness: "The last conversation on this subject took place on the 2nd of August, 1944, on the eve of his final departure from Ankara after the breaking off of diplomatic relations between Germany and Turkey. To my advice not to leave Turkey and to address an appeal from here to the German people and the German Army to overthrow Hitler and discontinue the senseless war, von Papen answered in substance as follows: ' I have learned from history that dictatorships cannot be done away with from within a foreign country; one must be in the country itself in order to fight the regime effectively. I have therefore determined to return to Germany and there to conduct the fight against the Hitler regime and thereby hasten the end of the war.'"

I have finished questioning the witness von Papen.

THE PRESIDENT: Does any other member of defense counsel want to ask any questions?

DR. VON LUEDINGHAUSEN: Dr. von Leudinghausen, for the defendant von Neurath.

BY DR. VON LEUDINGHAUSEN:

Q Mr. von Papen, I should like to ask you a few questions, with the permission of the Court. Since when have you known von Neurath?

A Since 1932.

Q Is it true that it was the express wish of the Reich President, von Hindenburg, that Mr. von Neurath was to be taken into your government as Reich Foreign Minister, your government which you formed in 1932?

A Yes.

Q Did you know, from the previous activity of Mr. von Neurath in his various positions, as ambassador, specifically, that in his last position in London, Mr. von Neurath was a follower, one of the most prominent representatives of a peaceful policy?

A That was known to me and to everyone in Germany.

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Q Did you yourself approve this peace policy?

THE PRESIDENT: I think you are going a little too fast. Go on.

Q Did you yourself approve of this peace policy?

A Of course I approved this policy. Otherwise, we would not have been working together in this cabinet.

Q Did Mr. von Neurath, a few months later, take any part in the negotiations for the transfer of the Reich Chancelleryship to Hitler?

A In no way.

Q Do you know that President von Hindenburg made the express condition that Mr. von Neurath was to be retained as Reich Foreign Minister in the new Hitler government?

A I have already mentioned here that this was an express condition of Hindenburg.

Q And what was Hitler's attitude? Did he accept this condition only in order to be able to form the government or did he approve Hindenburg's choice?

A I believe that Hitler approved the choice of Neurath as Foreign Minister.

Q Did you yourself ever talk to Hitler about this?

A Yes, frequently, and I learned from Hitler that he had great confidence -- that he thought highly of Mr. von Neurath's experience.

Q And did you ever speak to Mr. von Neurath about it?

A Yes.

Q Was he ready to do this? Was he willing to do this or not?

A It was not easy for any of us to decide to form this cabinet. I imagine that Mr. von Neurath shared my inner reservations.

Q As far as you could learn from statements of Hitler at that time, what were the foreign political aims and efforts of Hitler?

A Hitler's foreign political aims at that time were quite limited, abolition of discrimination by peaceful means and strengthening of the German position in the world.

Q Until the end of 1937, did you ever hear anything from Hitler indicating that he might be determined to use arms if his peaceful efforts did not have the desired result?

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A I never heard from Hitler of any such intentions.

Q Was it always asserted in leading party circles? Were such bloody intentions expressed?

A I never learned that, in the Party. Even the most radical National Socialists ever spoke of the idea of a war.

Q Then we can sum up that Hitler agreed absolutely with the aims of the peaceful policy of von Neurath?

A Absolutely.

Q Now, Mr. Von Neurath is charged with cooperating in the rearmament of Germany. What was the reason and the motive of Hitler for this rearmament?

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A I had stated yesterday that rearmament proper began only after I had resigned from the cabinet. Butas far as I am informed, all of my former colleagues held the view that rearmament would only have the purpose of giving Germany defensive protection along her borders.

Q Now I come to the prbblem of Austria. Do you know the attitude of Mr. von Neurath on the Austrian problem?

A The position of Mr. von Neurath in the Austrian problem was the same as my position, and like myself he constantly protested in the cabinet against the terror measures instituted by the Party in '33 and '34.

Q Were you yourself, when Hitler sent you on an extraordinary mission to Vienna, under von Neurath? Did you receive instructions from him or only from Hitler?

A I was not subordinate to Mr. von Neurath. I had asked that I might be directly under Hitler, but of course I reported to Mr. von Neurath and the Foreign Office about all steps which I took,as is shown by the documents submitted here.

Q What was the attitude of Mr. von Neurath toward the negotiations in the summer of '36 which led to the treaty of the 25th of July between Germany and Austria?

A The 11th of July. Mr. von Neurath had exactly the same opinion as I, that this treaty was to and had to serve a final cause of peace between these two peoples.

Q Did he attempt to influence Hitler to this effect?

A I don't know, but I assume so.

Q And was he honest and upright in this treaty? What is your opinion? I point out that the Prosecution asserts and charges Mr. von Neurath that this treaty was concluded with a treacherous intention.

A I spoke in detail on that subject yesterday, and I protested against the charge of treacherous intention. Mr. von Neurath had such intentions as little as I did.

Q I have two more brief questions.

Do you know what attitude Mr. von Neurath held as to Germany's leaving the League of Nations and the Disarmament Conference in 1933?

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A Yes, I know that very well. Mr. von Neurath was of the opinion that it was advisable to leave the Disarmament Conference, but like me he was of the opinion that it was a mistake to leave the League of Nations. With his approval, as I told the court yesterday, I followed Hitler to Munich in order to persuade him not to leave the League of Nations.

DR. VON LUEDINHAUSEN: I have no more questions.

DR. SEIDL (Counsel for defendants Hess and Frank): With the approval of the court, I should like to represent Dr. Stahmer and ask questions on behalf of the defendant Goering.

BY DR. SEIDL:

Q Witness, this morning you said that in connection with the murder of your friend Ketteler in 1938, you applied to Goering because he was in charge of the Gestapo. Is it not a fact, and were you not aware of this fact, that from 1936 on, at the latest, the Gestapo was exclusively under Himmler, and was formerly under the Reich Minister of the Interior?

A It is possible that through my four year absence from Germany in Austria I did not know that fact. It has been established here, in any case, I had the feeling when I applied to Goering that he was in a position to defend me against the Gestapo, and after Hitler had refused to speak to me on this matter it was only natural that I should turn to him as the second man in German

DR. SEIDL: I have no more questions.

THE PRESIDENT: Does the Prosecution wish to cross examine?

Sir David, would you prefer to start after the adjournment?

SIR DAVID MAXWELL FYFE: My Lord, I was thinking that I might have the documents arranged then and it might be more convenient forthe Tribunal.

THE PRESIDENT: We will sit again at 5 minutes to 2.

SIR DAVID MAXWELL FYFE: I am very much obliged, your Lordship.

(A recess was taken until 1355 hours).

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AFTERNOON SESSION

(The hearing reconvened at 1355 hours, June 18, 1946.)

FRANZ VON PAPEN -- Resumed
CROSS-EXAMINATION

BY SIR DAVID MAXWELL FYFFE:

Q Defendant, do you remember saying in your interrogation on the 19 September of last year that your present view was that Hitler was the greatest croo that you had ever seen in your life?

A That is quite true. That was the opinion which I arrived at after I learned here of all the crimes.

Q Well, that was on the 19 September, 1945. But I am more interested in your next answer. Wasn't that when you were asked when you made your mind up that Hitler was the greatest crook you had ever seen in your life.

"Only after I have known the facts after which he statrted to go to war."

Do you remember saying that?

A Yes.

Q Was not that rather a long time for you to discover that somewhat obvi truth after your close cooperation with Hitler?

A My opinion about Hitler and his inner political significance was compl ely clear after the 30th June, 193h. But somewhat as all other human beings, I could assume in the field of foreign politics at least he would be sensible an I was of this opinion until after the Munich agreement.

Q Well now, just let us see whether you had not had an opportunity of fo ing that view much earlier. When you were Reichschancellor in 1932 it was nece· ssary for you to aquaint yo rself with the personalities and aims and methods of the Nazi Party, was it not?

A Yes.

Q And you did so, did you not?

A Yes.

Q And you remember -- I do not want to delay by referring to the document but you may take it as an exact quotation -- that on the 16th of November, 193 Hitler wrote to you and said:

"You must be aware of my attitude, the attitude of my Party."

A Of course I knew the aims of his Party but I may add if a Party forms

a coalition with another party it has to eliminate a great deal of its program and form a coalition program. That was what Hitler did on the 30th of January.

Q Yes, but before we come to the 30th of January I want to ask you, get your view in 1932. You had very little doubt in 1932, during the period of your chancellorship that if Hitler got into power Germany was in danger of being ruled by violent and unconstitutional methods, had you not, if Hitler got into power?

A Doubtless the program of the National Socialists was revolutionary in this connection but I explained in detail to the Court that when we came to this forcible solution of the 30th of January we incorporated a number of safeguards and drew up a joint coalition program which in our opinion eliminated the points of danger which you have mentioned.

Q It was very strongly the view of President von Hindenburg in the middle of 1932, that it would be most dangerous to put power into Hitler's hands, was it not?

A Yes, that was his opinion, that Hitler had to be controlled by restricting his power.

Q I just will give you one sentence from the affidavit of Herr Meissner, which the Tribunal will find in document book 11A on page 43. This will be GB 495. The number is 3309-PS.

This was after, in August 1932. According to Meissner:

"Hindenburg stated that because of the tense situation he could not in good conscience risk transferring the power of government to a new party, such as the National Socialists, which did not command a majority and which was intolerant, noisy and undisciplined."

That is a very moderate statement of the Reich President's views at that time, is it not?

A Yes.

Q And you knew, defendant -- I am not talking about a coalition, I am talking about if the National Socialists came into power themselves -- It was obvious to you that they had few scruples and would make short work of their political opponents, is that not so?

A One cannot say that. In political life it is always so that a radical party, any party, but particularly radical parties if they come to power and are



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made responsible have to eliminate much of their program. For example, we saw that in the case of the Socialist Parties of all countries.

Q Now, is it true, as the defendant Goering stated under oath, that he told you in 1932 that whatever else the Nazis would do Hitler would not become a "vice" or second man; that he would oppose any political set-up which did not give him the first place? Is that correct?

A Yes, Hitler said so to me personally.

Q And therefore you realized that Hitler and his accomplices wanted a full opportunity to put their program and intentions into effect, did you not?

A No, I did not know that. That is a statement which you make here which does not correspond to the conditions at that time. You need only to consider the Government program of our coalition of the 1st of February.

Q Defendant, do not be afraid that I am not coming to the period of your coalition of January the 30th. For the moment I am just asking you one or two questions about your view of Hitler and Hindenberg's view of Hitler in 1932 because I want to take it by very quick but very clear stages.

I am still asking you about 1932. The question I put to you was:

Did you realise that if Hitler and his accomplices came into power they wanted and would only be content with a full opportunity of putting their program and intentions into effect?

A No, I did not know that otherwise I would not have made the attempt in 1933 to bring them into a joint coalition program.

Q Now, you have told us, I think, but I just want to get it quite clear, that your views as to what was necessary for Germany in the second half of 1932 was an easing of the political differences and strife internally and an adjustment of relations with the western powers to ease the requirements of Versaille. I am trying to put it quite shortly as I understand it from you. That is right?

A Yes.

Q And were these aims -- I think your first approach was to invit Hitler to be vice-Chancellor in your Government in August 1932, was it not?

A That is right.

Q Hitler refused that and he refused a repetition of your offer in November 1932, is that not right?

A Yes.

Q Now, in order to save time I just want to see if Herr Meissner puts the position correctly in paragraphs six and seven of his affidavit. I will summarize it for you and believe me I will be most pleased to read anything of which you have any doubt. He puts it in this way. That in November, 1932 you thought that the general situation and the Nazi Party, in particular, could be controlled if the President gave you the power to make decrees under Article 48 and you had the support of the Reichswehr and the police and at that time General von Schleicher disgreed because he thought that the Reichswehr was not capable of keeping order in Germany. Is that right?

A It is incorrect insofar as this process cannot be covered by any paragraph of the constitution but constitutes a breach of the constitution. Otherwise it is correct.

Q That he might have had to use ultra-constitutional methods to keep control, is that what you mean?

A Yes. As I have said here on the first of December he gave this assignment to me.

Q Yes, but originally, is Meissner right in saying, that you desired after you had failed to get Hitler into your government, you desired to rule by decree and by keeping control with the Reichswehr and General von Schleicher said that it could not be done?

A No, that is not true. After President von Hindenburg had decided that he did not want to break the constitution he appointed General von Schleicher Reichschancellor. At that time Mr. von Schleicher wanted to create a majority by splitting the party and , of course, I supported that attempt of Mr. von Schleicher.

Q Just in case it is any mistake of mine may I just give you Meissner's own words, It is paragraph 5, page 44 of the document book 11A. I think, defendant, it would be convenient for you to follow it if you do not mind so that there is no possibility of mistake.

A Yes.

Q It is paragraph 5 of Herr Meissner's statement.

"Papen's re-appointment as Chancellor by President Hindenburg would have been probable if he had been prepared to take up an open fight against the National Socialists, which would have involved the threat or use of force.



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Almost up to the time of his resignation, Papen and some of the other ministers agreed on the necessity for pressing the fight against Nazis by employing all the resources of the State and relying on Article 48 of the Constitution, even if this might lead to armed conflict. Other ministers, however, believed that such a course would lead to civil war.

"The decision was provided by Schleicher, who in earlier times had recommended energetic action against the National Socialists even if this meant the use of police and army. Now, in the decisive cabinet meeting, he abandoned this idea and declared himself for an understanding with Hitler."

Is that correct?



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A In part it is correct, and it in part it is not correct.

Q Now tell us as shortly as you can the part which is not correct.

A My re-appointment as Chancellor by Hindenburg, as Mr. Meissner says, would have been possible if I had been ready to wage an open battle against the Nazis. That is completely false historically. On 1 December I suggested to von Hindenburg to violate the constitution and wage open battle against the Nazi Party. Mr. von Schleicher contradicted that. That is the historical truth.

Q Just so that we will have it in sequence, if you will look at paragraph 6 of the same document, about the second sentence; it begins :

"When it became clear that Hitler was not willing to enter Schleicher's cabinet and that Schleicher on his part was unable to split the National-Socialist Party, as he had hoped to do with the help of Gregor-Strasser, the policy for which Schleicher had been appointed Chancellor was shipwrecked. Schleicher was aware that Hitler was particularly embittered against him because of his attempt to break up the Party, and would never agree to co-operate with him. So now he had changed his mind and decided to fight against the Nazis--which meant that he now wanted to pursue the policy which he had sharply opposed a few weeks before, when Papen had suggested it."

Is that right ?

A That is quite right.

Q Now, you see— I want to get the position quite clear. You have told us that you had approached Hitler first in August; before you approached Hitler you had already legalized the position of the SA and the SS, which had been made illegal by Chancellor Bruening. You did that on 14 June, didn't you ?

A I had lifted the prohibition, yes, but only for four weeks.

Q Did you think it was a good thing to lift the prohibition against the SA, the terror of the streets ?

A I stated expressly to the Court how the lifting of this prohibition came about. The reason was to bring Hitler and his party to tolerate my cabinet. The second reason was that the prohibition against these formations was one-sided, if the Socialists' and communists' fighting formations were not also prohibited.

Q And on 20 July you had forcefully got rid of the Braun-Severing

government, and got control of Prussia, and the Prussian police under your own hand ?

A It can not be expressed in that way, no.

Q Well, you had got rid of the Braun-Severing government and got power of Prussia and the Prussian police under your own hands, had you not ?

A I did not have the Prussian police in my hands. The Reich Commissar for Prussia, whom I had appointed--a very moderate man-- now governed the police.

Q And under the Weimar Constitution you, as Chancellor, had the right to dictate all lines of broad policy, and the Commissar for Prussia and every other Minister had to take his broad policy from you; wasn't that right ?

A After I had appointed a commissar, I had the right to determine the general lines of policy for Prussia.

Q Now, I would just like you to look at a speech of yours which you made at Essen in November 1933, where you speak about this time.

SIR DAVID MAXWELL-FYFE : It is Document Book 11, page 54, and it is page 47 of the German document book.

BY SIR DAVID MAXWELL-FYFE :

Q Now, you see the introductory words :

"Ever since Providence called upon me to become the pioneer of the national resurrection and the rebirth of our homeland, I have tried to support with all my strength the work of the National Socialist movement and its leader."

Is that true ?

A Absolutely, yes.

Q I just asked you if it is true. I may come back to it again.

" Just as I at the time of taking over the chancellorship--" That is you taking over the chancellorship--"have advocated to pave the way to power for the young, fighting liberation movement."

Was your work in paving the way to power for the young



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fighting liberation movement to legalize the SA and to turn out the moderate government in Prussia and centralize the control of the police?

A No.

Q Well--

A That would be a very poor comparison.

Q Just pause there and tell me if that was not what you had done. Tell the Tribunal how you had paved the way to pow er for the young, fighting liberation movement, if it was not by doing that.

A Yes, I will say that very exactly . The program of the National Socialist Party provided for the liberation of Germany from the discriminations which had been imposed upon us by the Versailles Treaty. I have spoken here in detail about this. I have explained what efforts I made to obtain the cooperation of the big powers in this connection. We wanted to become a big power, from being a secondrate nation.

Q Defendant, I do not want to stop you, and the Tribunal will give you every opportunity of repeating what you said on that point, but I do want you to answer my question. If I am wrong in what I have put to you as the two things you had done to pave the way, just tell us quite shortly what else had you done to pave the wa y for this fighting liberation movement? That is the question. What had you done?

A I had asked Hitler twice to join my own government, and when at the end of January 1933 there was no other way out, I formed a coalition at Hindenburg's request with the National Socialist Party.

Q Now, did you believe at that time that Hitler was absolutely necessary for Germany?

A I was of the opinion that a man who in March 1932, before I was in the government, had 36.8 per cent of all German votes in the presidential election, that that man and his party had to be included in the responsible government work.

Q But beyond his electoral success, did you think that Hitler from his personality, aims and program, was essential for Germany at that time?

A I do not know how a party which controlled 36.8 per cent of all German votes could be dealt with.

Q Look at your own words in the next paragraph of that letter. You do not seem to refer to merely electoral success.

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"The kind Lord has blessed Germany by giving it in times of deep distress a leader who will lead it through all diseases and weaknesses, through all crises and moments of danger with the assured instinct of a statesman into a happy future."

That was, shall we say--we won't say extravagant, but, rather, strong language for an ex-cavalry officer to use of a political figure if he did not think or if he did not want other people to think that he firmly believed in him. Did you really mean what you are saying there?

A I may say the following. After I had formed the coalition with Hitler, I was convinced that he would keep this pact of coalition, and repeatedly--not only in this speech--I professed my allegiance to Hitler and to our joint program, and I have already told the Court precisely why I took his part in thisspeech. This was a question of stating before the whole world that Hitler's solemn undertaking to keep peace was meant weriously, which we all emphasized.

Q Well, now, I am not going to delay. You understand that what I am putting to you, defendant, is this: That during the early months of your chancellorship you took action and tried to get Hitler to come in with you. When he refused you for the second time, you then, according to Meissner, were prepared to use force against him. When that was refused to you through Schleicher, you resigned. When Schleicher took over and got into difficulties, you turned around to Hitler again. That is what I am putting to you, and it was at your request, was it not, that you and Hitler had the meeting at the house of Kurt von Schroeder on 4 January 1933?

A No, that is a completely false conception. Unfortunately, the Court did not permit me to tell of this meeting on 4 January.

Q Well, do you disagree with von Schroeder that it was at your request that the meeting took place?

A Yes, I am of an entirely different opinion. This meeting took place at the--

THE PRESIDENT: Will you ask him to tell us about that meeting on 4 January?

SIR DAVID MAXWELL FYFE: Yes, certainly; I am going to deal with it.

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BY SIR DAVID MAXWELL FYFE:

Q Well, now, do you say that Hitler asked for the meeting? I am suggesting to you, you see, that von Schroeder, who was the intermediary, says that you asked for the meeting. Do you disagree with that?

A Yes, I am of an entirely different opinion. What Mr. Schroeder says doesnot correspond to the facts.

Q Well, you tell the Tribunal who arranged it.

DR. KUBUSCHOK: I object to the use of this Schroeder affidavit. The document was to be submitted by the Prosecution. I asked that the witness be called. The Court asked the Prosecution to bring the witness. The Prosecution did not call him. Now, in cross-examination, the affidavit is to be used. I do not believe that that is permissible. The decision of the Court would be crossed. The Court decided to use the witness. Now it is being used without the witness.

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SIR DAVID MAXWELL FYFE: My Lord, it is quite true. I should submit that it is a different matter, using it in cross-examination, when Dr. Kubuschok has put it in, as part of his own evidence, evidence from Schulthess' Calendar of European History, an account of this very meeting, which you will find in Volume 1, page 27, of his document book. If evidence of this kind has been put in a document book, surely, then, I am entitled to challenge that evidence in cross-examination by the affidavit of von Schroeder.

My Lord, I am sorry, I should have gone further. My friend has put in an actual statement from Baron von Schroeder, which appears on page 26. He says that, at the same time, Baron von Schroeder handed the following declaration to the County Bureau to correct the false press news. "The initiative for bringing about a discussion between former Reich Chancellor von Papen, as the representative of the widest national conservative circles, and Herr Hitler, as the sole leader of the National Socialist movement, emanated exclusively from me personally".

I should have thought that, inasmuch as a statement from von Schroeder has been put in, I am entitled to challenge that with another statement of von Schroeder.

DR. KUBUSCHOK: May I say something, Mr. President?

There are two entirely different things here. Sir David is referring to a document from Schulthess' Calendar of History. That is a joint communique of Papen and Schroeder, which was published in the papers at that time. I object, however, to an affidavit of the witness Schroeder, and I pointed it out at the time. The prosecution could see, at that time, that Schroeder was a suspected person under the indictment, and that he himself was concerned in the matter to such an extent that producing an affidavit would be possible only if we had an opportunity to question von Schroeder here.

What is here is nothing but a reproduction of contemporary documents from a historical calendar of Schulthess. Those docu-

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ments,,in agreement with the prosecution, were accepted by the Court.

THE PRESIDENT: Sir David, can't you put the facts without relying on the document?

SIR DAVID MAXWELL FYFE: I can quite easily, My Lord; I will do that.

BY SIR DAVID MAXWELL FYFE:

Q. At this meeting, defendant, didn't you suggest-- I am sorry, I apologize. I think we should have gotten the surroundings. First we will get where it was and who were there.

It was in Baron von Schroeder's house in Cologne, I think, or his flat in Cologne; isn't that right?

A. Yes, but no friend of mine.

Q. Now, the people who were in the house--and I will come to who were present at the meeting: Hitler's party was himself, the defendant Hess, Himmler, and Keppler, was it not?

A. That is possible, yes.

Q. Keppler is the gentleman of whom the Tribunal have heard as being in Vienna in March of 1938, isn't that so?

A. He was the man who was always in Hitler's entourage.

Q. Now, the actual discussion took place between you and Hitler, with von Schroeder present. Isn't that so?

A. No. Perhaps I may sketch this meeting to the Court, according to their wish.

Q. Well, I think it is easier to put the facts to you. I will take them quite shortly. I am in the hands of the Tribunal.

Do you say that von Schroeder was not present?

A. Schroeder may have been present at parts of the talk. I recall that in the main I talked to Hitler alone.

Q. The meeting started at about 11:30 in the morning, did it not? The meeting between you and Hitler?

A. Yes.

Q. And the first point that you raised was to explain to Hitler that although you had not been able to release the two

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Nazis who had been condemned for killing a Communist, you had tried to get President vonHindenburg to pardon them. Isn't that right?

A. I recall that Hitler reproached me because of the death sentence against those National Socialists.

Q. And the second point that you raised as an explanation to Hitler was that it was not through any intrigue or machinations of yours that President von Hindenburg had refused to discuss with Hitler the question of Hitler being Chancellor. Wasn't that the second point, it wasn't you who had caused von Hindenburg to refuse the discussion?

A. Yes. I explained to him that my offer of the 13th of August, 1932, to him had been meant absolutely honestly.

THE PRESIDENT: I don't think that was an answer to your question.

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BY SIR DAVID MAXWELL FYTE:

Q Didn't you explain to Hitler that it was not your fault that von Hindenburg had refused to discuss the question of making Hitler Chancellor in August of 1932--

A No.

Q When Hitler had met von Hindenburg?

A No, that is not right. According to the historical documents, Hitler had a talk on the 13th of August with von Hindenburg, and Hindenburg explained to him the reasons why he refused the Chancellorship for Hitler.

Q What I am putting to you is that you told Hitler, on the 4th of January, when you had that talk with von Hindenburg: "I want you to understand it wasn't my fault that von Hindenburg wasn't ready to discuss the question of you being Chancellor." Didn't you tell him that, that it wasn't your fault, that you thought von Hindenburg would have been ready?

A No, no; that is what Mr. von Schroeder says, but that is not right.

Q Well now, what do you say was said on the point of von Hindenburg and Hitler? If you don't accept what I suggest to you, What do you say?

A What Hindenburg told Hitler can be read in all the book That is a matter of history.

Q No, no. What we want to know--if I may say so, with great respect to the Tribunal--is what you told Hitler on the 4th of January. What did you tell him, if you told him anything, about the position between President von Hindenburg and himself?

A If you would have permitted me to make an explanation about the course of the talk, I would have already explained that

In the course of this talk I did nothing but call Hitler's attention to the fact of how necessary it was to reach an agreem with Mr. von Schleicher, how necessary it was to enter his govern ment. In other words, I continued my efforts, which I had made in 1932, to induce the Nazi Party to cooperate.

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Q Are you seriously telling the Tribunal that you told Hitler that he should go into a Schleicher Cabinet?

A On the contrary. I told him he should enter the Schleicher Cabinet.

Q That is what I put to you. I am suggesting that is entirely wrong. What you suggested to Hitler was that it would be a sound thing for the conservatives and nationalists, whose political views coincided with yours, to join with Hitler in forming a government, that you put to him what actually happened on the 30th of January, you suggested it to him at this meeting. Do you say that is untrue?

A Not one word is true; that is absolutely false. As proof of this, I state the following:

Immediately after the conversation I wrote a letter to Schleicher; that was on the 4th of January, in the afternoon, and he probably received it on the morning of the 5th. However, before Mr. von Schleicher received this letter of mine on the actual content of the talk, the morning papers of the 5th of January started a campaign against me, asserting that this talk with Schroeder contained disloyalty to Schleicher. I returned to Berlin and went to see von Schleicher immediately, and I explained to him what the content of our talk had actually been. Mr. von Schleicher then published a communique on this subject.

Q But he wasn't the only person, you know, that published a communique. You and Hitler published a communique.

I want you to remember, defendant, I put to you that the suggestion from you was that you and Hitler would form a coalitio with the conservative forces behind you and the National Socialis forces behind Hitler. Now just look at the communique that you and Hitler issued.

SIR DAVID MAXWELL FYFE: We will give the defendant document 637. My Lord, this is a new document, which will become GB-496

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BY SIR DAVID MAXWELL-FYFE:

Q Look at the foot of it, defendant, the end of the document:

"Adolf Hitler and Herr von Papen publish the following combined declaration:

'Against false deductions which are in many cases being circulated in the press regarding Adolf Hitler's meeting with the former Reich Chancellor von Papen, the undersigned declare that the conversation dealt exclusively with the possibility of creating a great national political United Front, and that in particular the opinions of both parties on the Reich Cabinet at present in power were not touched on at all within the framework of this general discussion.'"

Now, defendant, when you have been reminded of what you published yourself is it not correct what I have put to you, that you suggested to Hitler that you should form this coalition of conservatives and nationalists who agreed with you, and the Nazi Party under Hitler?

A No. This communique states two things: In the first place, I observe that the overthrowing the Schleicher cabinet or the replacing of it by another government, as the press asserts, was not discussed at all. Then I state that it is necessary to create "a great national political United Front". Mr. von Schleicher headed the same cabinet that I headed, with the same political forces. So if I called on Hitler to enter this cabinet, then, that is exactly the same combination as if I had asked him to join my cabinet.

Q Defendant, I am not going to argue with you. If you say that that communique is your way of expressing that you had asked Hitler to take the Nazis into von Schleicher's government and that you had not discussed forming the coalition; if you say that that is what that communique expresses, I have no further questions, and I will passon to another point. I have made my suggestion, and I suggest the communique bears it out.

But now, let us come to the next action of yours. Do you deny that during January you were active in making contact with Hitler, and on Hitler's behalf with President von Hindenburg, in order to bring Hitler into the government? Or do you agree with that?

A That is true, and I will say in what respect. I had two official

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talks with Hindenburg. On the 9th of January, when I returned to Berlin, I went from Reich Chancellor von Schleicher to Reich President von Hindenburg. Reich Chancellor von Schleicher, in the opinion that in the Schroeder talks I had been disloyal to him, had asked von Hindenburg not to receive me any more. I reported to von Hindenburg on the actual content of the Schroeder tal and after I had reached an agreement with von Schleicher, Hindenburg was also convinced that the whole thing had a big misunderstanding.

Then, to the best of my memory, from the 22nd of January on, I officially talked to Hindenburg about these matters.

Q Well, now, just let us see what the chief of the Presidential Chancellery says about it, and see whether he can reinforce your memory. Would you look at Herr Meissner's affidavit, at the second part of Paragraph 6:

(A document was handed to the witness.)

SIR DAVID MAXWELL FYFE: My Lord, it is 11-A, Page 45, about seven lines from the foot of the page.

BY SIR DAVID MAXWELL FYFE:

Q You see, just after the first section of Paragraph 6, defendant, the second part, it begins:

"Schleicher first made these suggestions to Hindenburg in the middle of January . . . ".

Then the next sentence is:

"In the meantime Papen had returned to Berlin, and through arrangements with Hindenburg's son, had several interviews with the President. When Schleicher renewed his demand for emergency powers, Hindenburg declared that he was unable to give him such a blank check and must reserve for himself decisions on every individual case. Schleicher, for his part, said that under these circumstances, he was unable to stay in government and tended his resignation on the 28th January 1933."

Then, Paragraph 7:

"In the middle of January, when Schleicher was first asking for emergency powers, Hindenburg was not aware of the contact between Papen and Hitler -- particularly the meeting which had taken place in the house of the Cologne banker, Kurt von Schroeder. In the second part of January, Papen played an

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increasingly important role in the house of the Reich President, but in spite of Papen's persuasions, Hindenburg was extremely hesitant -- until the end of January -- to make Hitler Chancellor. He wanted to have Papen as chancellor once more. Papen finally won him to Hitler with the argument that the representatives of the other right wing parties which could belong to the Government would restrict Hitler's freedom of action. In addition Papen expressed his misgivings that, if the present opportunity should again be missed, a revolt of the National Socialists and civil war were likely."

Is that right?

A No --

DR. KUBUSCHOK: May I make a comment on the affidavit of Meissner? The case is similar to, but not quite the same as, the Schroeder case. The Meissner affidavit was not offered to the court during the proceedings. But during the prosecution's case it came to my knowledge that the Meissner affidavit was to be used. I talked to the prosecution and pointed out that I would not be satisfied with submitting the Meissner affidavit, but would insist on calling Meissner as a witness.

The reason is the same. The personality of the witness Meissner, who had a large part in these affairs, makes extreme caution advisable. The prosecution told

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me that they would not use the affidavit, and finally told me that they would not call Schroeder as a witness. I had no reason to call the witness myself. Now I am in a position where in cross examination the affidavit is being employed without my having an opportunity to question the suspected witness Miessner before the court.

SIR DAVID MAXWELL_FYFE: My Lord, concerning out position with regard to this affidavit, Major Barrington tells me that he did not have it when he presented the individual case against von Papen. I am using it now. If the Tribunal thinks there is sufficient divergence between what the witness accepts and the affidavit to justify it, I have not the slightest objection to Dr. Kubuschok's making application for Miessner to be cross examined.

THE PRESIDENT: What do you say to the allegation of Dr. Kubuschok that the prosecution says they were not going to use the affidavit?

SIR DAVID MAXWELL_FYFE: My Lord, I did not say that. Major Barrington who was with me, had no recollection of my saying that at all. Major Barrington certainly never said that. It was never our intention, because it clearly was a most important document for us to use.

THE PRESIDENT: What is the date of it?

SIR DAVID MAXWELL-FYFE: The 28th of November. We gave a copy to Dr. Kubuschok.

DR. KUBOSCHUK: Yes.

Mr. President, may I explain? An obligatory statement by the prosecution not to submit the affidavit and not to call the witness was not given. If an affidavit was used, I said I would call the witness. I asked the prosecution repeatedly, "Are you going to call the witness or not"?

They said, "No".

Then I said, "Then I have no interest in it. We will drop this whole subject. I will not call the witness."

THE PRESIDENT: The affidavit seems to have been made a long time ago.

SIR DAVID MAXWELL-FYFE: Yes, Mr. Lord.

THE PRESIDENT: Actually, it was almost as soon as the Tribunal began. I think that perhaps you ought to use the facts and not use the affidavit.

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SIR DAVID MAXWELL-FYFE: My Lord, I am perfectly prepared to do whatever the Tribunal wants. It there is any question and Dr. Kubuschok wants Meissner for cross examination, as far as I am concerned, he can have him. I mean, I am in a slightly different position from that with respect to von Schroeder. As far as fairness is concerned, I want your lordship to understand that certainly none of my staff thought for a moment that the defense understood we were not going to use it, because we always intended to use it. We gave a copy of this affidavit to the defense so that there would be ample notice of this affidavit.

DR. KUBUSCHOK: Yes; that was done, and I was grateful.

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SIR DAVID MAXWELL FYFE: My Lord, I am really anxious not to occupy too much of the Tribunal's time. I would rather go on and put the facts in and save any discussion about it.

THE PRESIDENT: Very well, do that.

BY SIR DAVID MAXWELL FYFE:

Q I think you said, defendant, you put it that you had two meetings with President von Hindenburg and then, I think, after the 18th of January, you had meetings with Hitler and after the 22nd of January, you had meetings with the defendant Goering, as he said in his evidence, isn't that so?

A No, I did not meet with Hitler, after the 4th of January, until the 22nd of January.

Q We will call it about four days, the dates of the Nazi Party say that you began negotiations on the 18th but we won't quarrel about a day or two. The crucial meeting was the meeting which was arranged with Oskar von Hindenburg at the defendant von Ribbentrop's house, wasn't it?

A It was a preliminary talk; it was the first contact with the National Socialists, with Hitler, and with Goering.

Q And Oskar von Hindenburg had private conversations with Hitler which lasted for about an hour, at that meeting at von Ribbentrop's house; isn't that so?

A That is possible. I don't recall.

Q And thereafter, the decision was come to that Hitler would become Chancellor in the new government and that he would bring into the government the defendant Frick as Minister of the Interior and the defendant Goering as Minister without portfolio and he, himself, would head the government as Chancellor?

A No; on the 22nd, we did not reach any agreement.

Q I said only within a few days that had been agreed between you, hadn't it?

A Yes, but it is very important to establish--May I add that we only began these talks after it was certain that Mr. von Schleicher could not form a government after the attempt of the split of the Nazi Party had failed--that is very important.

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Q Now, are you telling the Tribunal that at this time you did what you have agreed you have done, to bring Hitler into power simply because he was head of the biggest party in the Reichstag or because you thought he was the most suitable man to be Chancellor of Germany at that date; which was your motive?

A My motive was very simple. In the situation existing after the 23rd of January, there were only two possibilities, either to violate the constitution which would result in civil war or to form a government headed by Hitler. I believe I explianed that in great detail to the Court.

Q What I really want to know, defendant, is that at this time you had had these contacts with Hitler. You have been Chancellor of Germany yourself. At this time, did you think that Hitler personally and Hitler's aims and intentions and personality were a good thing for Germany to have as Chancellor? It is a perfectly simple question. I want a straight answer. Did you think it was a good thing to have Hitler as you knew him then, as Chancellor of Germany?

A Yes--what can I say? The coalition which I endeavored to form on behalf of the president was a coalition of necessity. There is no question of whether or not it was good or bad. We had to accept it.

Q Well, now, just let us see. I think you said that you were not certain that Hitler would eliminate opposition before he came into power. How long did it take you, after Hitler became Chancellor, to find out that his desire was to eliminate all opposition?

A I realized that finally when I made the last attempt in my Marburg speech to establish a joint program.

Q That was eighteen months later, on the 17th of June, 1934. Are you telling the Tribunal that it took you eighteen months to realize that Hitler wanted to break down the opposition?

A No.

Q Just let me remind you of one or two things. Do you remember Herr Ernst Heilmann who had been the leader of the Social Democrats in the Prussian Diet?

A Yes.

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Q He was, I think, for ten years a member of the Prussian Diet with you. He went into a concentration camp at once and was treated with the most terrible cruelty, wasn't he?

A I learned of that later, here. I did not know it at the time.

Q Are you telling the Tribunal that you didn't know in 1933 that Ernst Heilmann went into a concentration camp?

A I knew only that a numberof political opponents, Communists and Socialists, had been sent to concentration camps by the Gestapo. That, I knew.

Q Now, answer my question. Here was the leader of the Social Democrats in the Prussian Diet, a man who sat in parliament with you for ten years. Do you say that you didn't know that he had gone to a concentration camp?

A I do not recall, no. I believe I learned of it only here.

Q Well, now, let me give you a famous name, Karl von Ossietski, the winner of the Nobel Peace Prize, the author and journalist. Didn't you know that he had gone into a concentration camp?

A I recall Mr. Ossietski only as the publisher of a periodical; otherwise I know nothing about him.

Q You didn't know that he was the 1936 winner of the Nobel Peace Prize, did you?

A I could not have known that in 1933.

Q No, but you didn't know he won it later on? Didn't you know that he was put in prison?

A No.

Q I thought I might have connected his name with you. Let me take somebody else. Take Dr. Ernst Eckstein who had been a Reichstag Deputy, who was a well-known lawyer from Breslau. Didn't you know that he was put in a concentration camp?

A No, I didn't know Dr. Eckstein, unfortunately.

Q Or Dr. Joachim, the Social Democrat from Berlin. Did you know he was put in a concentration camp?

A No, I did not know him either and I did not knowit.

Q Well, now, apart from individuals, didn't you know that within a few months of Hitler becoming Chancellor, that hundreds, if not thousands,

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of Social Democrats and Communists went into a concentration camp?

A Thousands?

Q Well, let us say hundreds, if you like. That is the figure defendant Goeringagreed to, so let us take as the inside figure--hundreds of Social Democrats and Communists. Minister Severing put it at fifteen hundred of each; didn't you know that?

A I recall very exactly from the defendant Goering; he came to the cabinet one day after the headquarters of the Communist Party, the Liebknecht house, had been taken by the police. He told the cabinet that he had found a great number of documents which showed to what extent the Communists and other elements were trying to disturb public order and overthrow thenew government.

Q Now will you answer my questions. Didn't you know that hundreds of Social Democrats and Communists had been put in concentration camps?

A No, I didn't know there were hundreds. I knew that individual leaders had been thrown into concentration camps.

Q Now, you mentioned, in giving your evidence to the Court, that the Amnesty Decree of the 21st of March was only the sort of thing that had happened before; that was a concretely one-sided amnesty, wasn't it? It was an amnesty to those who had fought in the national revolution, that is, an amnesty for Nazis. It wasn't an amnesty for Communists or Social Democrats or anyone who had been on the other side, was it?

A Quite true, yes. It was an amnesty for the people who had worked against the formation of the government.

Q Now, you knew these things. Well, in your speech at Essen, let us just look at it again, your own account of what youhave done. It is page 54 of document book 11. You just told me that it was true what you have said in that speech--this was in November--that you had tried to support with all your strength the work of the National Socialist movement and its leader and if you will notice, you say later on that you were "selected by a gracious fate to put the hand of our Chancellor and Fuehrer into the hand of our beloved Fieldmarshal." By November, 1933, you must have had a very good idea about the way that Hitler, your Chancellor and Fuehrer, was dealing with those who were politically opposed to him. Why were you--you told us your point of

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view-- why were you saying how proud you were to have supported with all your strength the work of the National Socialist Party unless you agreed with it?

A The actions of Hitler and the Party against coalition policy, we opposed to the best of our power within the cabinet. We knew of them, it is true; I personally in many speeches which have not been submitted to the Court here, I referred to them, but as long as this coalition pact was in existence I had to hope that we would put our views through and only for this reason did I assure Hitler of my loyalty so that he, from his point, should be loyal toward us.

Q I just give you the last words. Here, you are appealing in a careful and special appeal to your Catholic fellow citizens and you say "Let us in this hour say to the Fuehrer of the new Germany that we believe in him and his work." Why did you talk like that when you must have known in November, 1933, that his program was to smash opposition, smash his political opponents, smash the trade unions and put himself in complete control of Germany? Why were you making speeches like that unless you believed and agreed with everything Hitler wanted to do?

A I will tell you. You know that in July of last year, I concluded the concordat and that I received the assurances of Hitler to make religious peace the basis of his policy. The more the conservative element could be brought into the government the better it could be for the fulfillment of my program.

Q If that is your answer, we will pass to another point. I think you said today or you said a few moments ago that you began to realize what sort of team you were running with when you made the Marburg speech on the 17th of June. Now, please don't think I am being offensive --

THE PRESIDENT: The Russian translation is coming through on the same line, and the French. We will adjourn now.

(A recess was taken)

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DR. VON LUEDINGHAUSEN (Counsel for the defendant von Neurath): Mr. President, may I request from the Tribunal that tomorrow and the day after tomorrow my client be absent from the session so that he may complete his own defense?

THE PRESIDENT: Certainly.

BY SIR DAVID MAXWELL FYFE:

Q Defendant, you have told the Tribunal a considerable amount about your Marburg speech. Was one of your associates a gentleman called Jung?

A Yes, that is quite correct.

Q And -- believe me I don't mean it in any offensive way -- Herr Jung had helped you considerably with the composition of the Marburg speech, had he not?

A Mr. Jung quite frequently produced sketches for speeches of mine, and the same applies to the Marburg speech.

Q Yes. He was shot after the 30th of June, wasn't he?

A Yes.

Q He was a man for whom you had not only great affection, but for whose political views -- I think you would call him a progressive conservative -- you had great respect and agreement, isn't that so?

A Perfectly right, yes.

Q You have told us about Herr von Bose. He was shot. Herr von Chirski was arrested by two different lots of people, wasn't he, after this occasion?

A Yes.

Q Was Herr von Savigne arrested?

A I can't quite remember. I don't think so.

Q Well, in all -- it doesn't matter about the names -- there were two members of your staff who were shot, and three were arrested, were they not?

A One member of my staff was shot, and two were arrested. Mr. Jung was not a member of my staff.

Q Herr Jung was not a member of your staff, but he was a close associate of yours. Now --

A (Interposing): He was an associate who, as I said, quite often

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assisted me when I was very busy by making sketches for speeches, and with whom I exchanged my conservative ideas.

Q And of course it is common knowledge that General von Schleicher and his wife were also shot, and -- I think my recollection is right -- that General von Groenau was shot too, wasn't he?

A Yes.

Q And you were placed under arrest, as you have told us, for three days, and I think your files were taken, were they not?

A Yes.

Q Did this performance shake your faith in the regime?

A My belief in what? I beg your pardon.

Q Did this performance shake your faith in the regime and in Hitler?

A Quite. I explained to the Tribunal yesterday that by this action the pact of the 30th of January had been broken.

Q And you offered your resignation on the 2nd of July, I think.

A No, I had already offered it.

Q You had already offered it on the 18th or 19th of June, and you re-affirmed your offer on the 2nd of July.

A You are quite right.

Q Quite right; my mistake. Now, do you tell the Tribunal that you reaffirmed your offer of resignation because you had lost your faith in the regime or because of the insult to your own pride because of your being arrested and having your files taken and your secretaries shot?

A I asked for my resignation firstly because of the impossible affront against my own person and my staff, and secondly because by this action the pact of the 30th of January had been broken by Hitler; also because any political cooperation with him had become impossible for me.

Q I see. Well, just look at Document 714, will you.

SIR DAVID MAXWELL FYFE: My Lord, this will be GB-497.

BY SIR DAVID MAXWELL FYFE:

Q This is a letter from you to Hitler written on the 4th of July, and you say:

"Yesterday at 10 in the morning I had the honor of informing you verbally

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of my attitude towards the events of the last days, after my stretch in police custody had been suspended on the 2nd at 9:00 o'clock. At this time I pointed out to you that I could not possibly take my seat in the Cabinet until my honor and that of my officials had been restored.

"On the 30th of June, five of my co-workers were arrested; one of them was shot. My files have been confiscated, my office sealed, and my private secretary also arrested. This is still the position at the moment.

"A procedure of this kind against the second highest official of the state could only be justified if he and his officials were guilty of complicity in the plot against Fuehrer and state.

"It is in the interests not only of protecting my personal honor, but even more so of protecting the authority and cleanliness of the state that either the guilt should be proved at once or honor restored."

Then you say:

"The events have become known abroad, and for that reason not a single hour should be lost."

You appeal to his soldierly sense of honor, and you ask that the case should be put in the hands of the Prosecutor General or "a communique be published stating that the investigation had provided no evidence of any complicity in the plot, my honor and that of my officials being thus restored.

"If you do not wish to embark upon the latter path, my remaining in the cabinet any longer would be an impossibility."

Now, look at the rest of the letter.

"I had placed my position at your disposal already on the 18th and 19th of June. I can ask for my dismissal with an even lighter heart today since it appears that the work mutually commenced by us on the 30th of January 1933 now appears to be secured against further revolts. At the same time, I request to be relieved of my position as Commissioner for the Saar.

"I take it that you will make your decision regarding the restoration of my honor within the next few hours.

"I remain loyally devoted to you and to your work for our Germany."

Was it true that it lightened your heart that the work of Hitler now appeared to be secured against further revolts?

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A I am afraid I didn't understand.

Q Is it true what you say there, that it lightened your heart that the work of Hitler now appeared to be secured against further revolt?

A Well, I was under the impression that there had been a revolution which had been suppressed. This letter was written a day after I was released from custody, and I had the feeling there had been a revolution and now it was settled.

Q Did you know that General von Schleicher and his wife had been killed?

A I don't think I know that at that moment, no.

Q You just knew that Herr von Bose had been shot?

A Yes, that is mentioned in the letter.

Q And you knew there wasn't the slightest reason on earth for General von Schleicher, Jung, and Bose being shot, didn't you?

A No, I didn't know the reason. As far as I remember --

Q (Interposing): No, you knew that there was no reason, didn't you?

A No, to my question regarding the reason, Hitler replied that Herr von Bose had been involved in a matter of giving information to the foreign press.

Q I see. So that we may take it that you were speaking with your head and your heart, and with complete confidence and sincerity when you said: "I remain loyally devoted to you and to your work for our Germany," on the 4th of July 1934, is that right?

A Yes. I had to hope that his further work wouldn't lead to any disadvantages for Germany.

Q You needn't go on with the letters. You may take it that I shall deal with them in time, so don't read the others in advance.

As a result of that, you saw Hitler on that day, did you not?

Would you mind just answering my questions. I assure you I will take you through these letters.

You saw Hitler on that day?

A I saw him earlier.

Q But you also saw him after.

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A I saw him the day before.

Q Yes, but you saw him after this letter, and didn't you agree with Hitler to remain Vice Chancellor until September and that you would then take employment under the Foreign Office?

A I don't believe that, no.

Q Well, if you don't believe that, look at the next letter which is D-715, which becomes GB-496.

This is a letter of the 10th of July, and it begins:

"Our agreement of the 4th of July" -- which is the date of the last letter -- "to the effect that I was to retain my position as Vice Chancellor until September and was then to be employed in the foreign service, was based between us on the following condition: The immediate and complete restoration of my authority and honor, so as to enable me to remain in the service of the Reich in whatever capacity."

Now, do you tell the Tribunal that on the 10th of July you didn't know that General von Schleicher and his wife had been killed and General von Groenau had been killed and that Jung as well as Bose had been murdered? You say you didn't know on the 10th of July?

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A. I am not denying that by any means, that is that I knew, but as I have already told the Tribunal I had demanded that an investigation regarding all these matters should be conducted so that we might know the reasons for them.

It has been stated to the public that Schleicher was shot in self-defense so that all these matters at the time were not at all clear.

Q. But it is correct, of course, as you write here, that you had agreed with Hitler to carry on as vice-chancellor until September and then to be employed in the Foreign Service on this condition, is that right ?

A. No, that is not correct.

Q. It is your own letter you know.

A. Yes, but this letter was written because Hitler had promised me that investigation and a clearing up of the matter and those points which would enable me a restoration of my honor and a clearing up of all the crimes so that I might remain in the service of the Reich but that was never done.

Q. Von Bose and Jung had been working with you in close cooperation and if anyone knew whether they were innocent men or not it was you. Why did you, with that knowledge, agree with Hitler to carry on as Vice-Chancellor and then to enter the Foreign Service ?

A. I have stated that I had resigned. The sentence dealing with my possibly remaining in office is only a supposition.

In fact I had resigned and the fact is that on the 4th of July I had not exercised any government activities.

Q. Just look at the next words in this letter.

"To this end I submitted to you on the 5th of July my proposals for an official statement explaining why the arrest of several officials of my staff had taken place and how von Bose had lost his life and averring the non-participation of all the members of my staff in the SA revolt. This statement requested by me was only partially passed by you and published inasmuch as the release and innocence of von Tschirschky, von Savigny and of my private secretary, Miss Stotzingen, were announced."

You had put before Hitler your own version and asked him to pass it and he would not pass it, he would not clear the people who were working closely with you and yet you had agreed with him, you had agreed with him to continue

as Vice-Chancellor and to go into the Foreign Service.

You see what I am putting to you ? I am putting to you quite clearly that all you cared about was your own personal position, your dignity being restored. You were prepared to serve these murderers so long as your own dignity was put right.

A. Mr. Prosecutor, a better proof for my intentions to separate myself from the regime then my actual resignation cannot exist. If everything had been made clear, if their innocence had been made clear under which my employees and officials were arrested and murdered, then perhaps the possibility of my remaining in the service might exist but not as Vice-Chancellor which position I had resigned from. But you can see from this letter that Hitler made no attempt to give such a declaration.

Q. And as a result of his making no such attempts you wrote an even more fullsome statement of your admiration for his actions. Look at number 716 which will become GB-499.

"Dear Reich Chancellor:

"I thought for a long time over our conversation of yesterday's date, and the statements made to me and in particular what you told me about your intentions regarding your Reichstag speech -- have occupied me constantly in view of the enormous importance of the speech and its special effect on Germany's position in the sphere of foreign politics also. I therefore feel the urge, in fact I feel it to be my duty, to let you know my opinion, as I have frequently done formerly on other occasions.

"You explained to me yesterday that you intend to publicly accept responsibility for everything that happened, including what happened outside the crushing of the SA revolt. Allow me to say how manly and humanly great of you I think this is. The crushing of the revolt and your courageous and firm intervention have met with nothing but recognition throughout the entire world.

"What are, however, at the moment a burden on Germany are solely those events that took place outside your own initiative and without any immediate connection with the revolt, such as the examples you yourself gave me. This has been given expression particularly in the British and American press."

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Then, missing out three paragraphs you say:

"Allow me to assure you once again that my person or my position, except for the restoration of my personal honor, do not matter at all, and are only at issue insofar as the events in the Vice-Chancellory on the 30th of June are being regarded by the public as being the consequence of a breach between you and me."

Then, after some more of the same you finish up:

"With unchanged admiration and loyalty --."

Did it not come to this defendant, that so long as you could get your dignity cleared it did not matter whether your collaborators were shot or the government of which you had been a member had adopted murder as an instrument of policy ? These things did not matter to you so long as you kept your own dignity and the chance of a future job in the Foreign Service.

A. No.

Q. Well, why did you write stuff like that to the head of a gang of murderers who had murdered your collaborators ? Why did you wirte to him:

"The crushing of the revolt and your courageous and firm intervention have met with nothing but recognition throughout the entire world."

Why did you write it ?

A. Because at that moment it was my opinion that in fact there had been a revolt and that Hitler had stopped it; that on the other hand numerous people had been murdered, members of my own office, friends. That was something about which Hitler was to ascertain the truth.

He says he himself would assume responsibility for it and then I found that this was an excellent act on his part but not in the sense as was done afterwards by Hitler, by his stating before the Reichstag that these events were right. I understood it to mean that if he himself would assume responsibility for these events that he would clear them to the world, not through a law however and state that they were right without any investigation.

Q. Would you tell the Tribunal that on the 12th of July you thought there was any doubt or any possibility that your friend Jung could be guilty of treason against the Reich or of a plot against Hitler ? Did you believe that for an instant ?

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A. Mr. Hitler explained to me at that time that the shooting of Bose was first of all --

Q. No, I asked first of all about yourself. I asked did you believe for a moment that Jung had been guilty of treason against the Reich or of a plot against Hitler ?

A. No, certainly not.

Q. Well now, you knew very well that Hitler was worried from the point of view of foreign opinion as to publicity being given to the effect of a break between you and him, did you not ?

You knew that the support, after the blood purge, of an ex-Chancellor of the German Reich and, as you have told us, a Catholic of old family with great position amongst the Catholic population -- the support of someone of that kind would be of great value to him after this blood purge which had cause foreign opinion to be very disturbed, did you not ? You knew that ?

A. No, it appears to me from these letters that I continually requested Herr Hitler to ascertain why and for what reasons these actions were taken against my associates and myself. I want to tell this to the world.

Q. Her von Papen, if you, as an ex-Chancellor of the Reich and, as you said yourself, one of the leading Catholic laymen of Germany, an ex-officer of the Imperial Army, had said at that time -- "I am not going to be associated with murder, cold-blooded murder as an instrument of policy" -- you migth at some risk to yourself have brought down the whole of this rotten regime, might you not ?

A. That is possible but had I said it publicly then quite probably I would have disappeared somewhere just as my associates did. And apart from that, the world knew from my resignation that I did not wish to identify myself with this affair.

Q. Just let us see what you were writing. If you look at 717 which will become GB-500, that emphasizes the importance that Hitler was attaching to your adherence. If you will look at the second paragraph -- I will read it, it is quite short. You say:

"I hope you have received my letter of yesterday's date and that you received it in the spirit in which it was intended.

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"Today I ask you, for [illegible] reasons, to excuse me from participating in the session of the Reichstag. Yesterday you were indeed of the opinion that my staying away might create the impression that there was disagreement between us. But this impression can surely not exist, if, during your speech, you refer to the case of the Vice-Chancellory in the form in which you promised me you would.

"During all these days I have behaved with the greatest possible reserve towards the outside and have shown myself as little as possible, and you will surely understand my not wanting to appear in public again until every shadow has been removed from me.

"I have also asked the chairman of the Party representative in the Reichstag to excuse my staying away."

Who is the chairman of the Party representative ? Is that the chairman of the Nazi Party representative ?

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A No, I believe the Chairman of the Party was Dr. Frick.

Q It was the Government Party, was it?

A Yes. The letter shows that I requested Hitler to make a statement before the Reichstag justifying it, dealing with the matters that had been taken against my associates.

Q You wanted a statement saying that you had never swerved from your loyalty towards him; that is what you wanted, wasn't it?

A No.

Q Well, if you disagree with that, look at 718, which will become GB 501, and see what you say the next day.

"Dear Chancellor: After you last night gave the nation and the world your great account of the internal developments which led up to 30 June, I feel the need to shake your hand, as I did on 30 January 1933, and to thank you for all you have given anew to the German nation, by crushing the intended second revolution and by announcing irrevocable and statesmanlike principles. Painful, tragic circumstances have prevented me for the first time since 30 January from appearing at your side. You yourself excused me and showed understanding for the fact that a Vice-Chancellor cannot take his seat on the Ministerial Bench as long as he finds himself subjected to special treatment. (My confiscated files have still not been returned to me, in spite of Goering's and your own orders.)

"Your statements have clearly shown that any suspicion of a connection between my person and the treasonable goings-on was an intentional libel and calumniation. I thank you for stating this."

Then, after saying that people are still believing it, in the penultimate paragraph you say,

"I should, therefore, be grateful if you could on some occasion point out positively that up to today--" that was 14 July--"up to today I have loyally stood by and fought for yourself, your leadership, and your work for Germany."

Now, defendant, do you deny what I put to you a moment ago--

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that all that you wanted was your loyalty to the regime to be made clear to the world? It was not worrying you at all that von Schleicher and his wife and von Bose and Jung and all these other people had been murdered by the government of the Reich; otherwise, why did you write a letter like that?

A I wrote this letter, as the letter itself shows, because I was still being accused of agreeing with the attempts on the lives of Goebbels and Goering and various other conspiracies. That is the reason why I am trying to have Chancellor Hitler state that I was not involved in this conspiracy against him during the various actions that occurred during the revolt. Of course, to begin with, I am dealing in this letter with my position and the position of my associates. The re-establishment of Schleicher's honor was a task for the army, not for me.

Q Yes, I will come to that when we deal with the army, but at the moment, you see, what I am putting to you is this: That even after you knew that your own friends had been murdered, to say nothing of your old colleagues, your own friends had been murdered, you again and again protest your loyalty and the fact that you had always worked and cooperated with Hitler in all his work. Was that honest? Is what is contained in these letters honest, or do you say they were just lies in order to protect yourself?

A No, I had written it because, in fact, the entire action against me, the attempted murder by Himmler, the fact that I was locked up, were all based upon the supposition that I had participated in a conspiracy against Hitler's government. It had to be made certain, first of all, that as long as I was a member of this government, I had acted loyally to them. That is the reason why I am asking for that statement to be made.

Q Do you remember your learned counsel, on your instructions, putting an interrogatory to Baron von Lersner? It is Number 2(a) on page 212 of Defense Document Book 3. Question 2(a)

"Did the defendant von Papen, through the impregnation of

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conservative ideas, continue o hope to change Hitler's policy to hiw own way of thinking until the murders taking place on 30 June 1934 and Hitler's approval of them had convinced him that his efforts and his hopes had been in vain?

And Baron von Lersner, not unnaturally, answers Yes to that question.

THE PRESIDENT: Which question was that?

SIR DAVID MAXWELL-FYFE: 2(a) on page 212.

THE PRESIDENT: It is not in our copy.

SIR DAVID MAXWELL-FYFE: I'm sorry--

THE PRESIDENT: 2(h).

SIR DAVID MAXWELL-FYFE: I'm so sorry. It is my fault entirely. It is rather blurred, and I thought it was an "a". I am greatly obliged. I read the question correctly as 2(a).

BY SIR DAVID MAXWELL-FYFE:

Q Does that correctly express your point of view-- "until the murders taking place on 30 June 1934 and Hitler's approval of them had convinced him--" That is you--that your efforts and your hopes had been in vain? Do you agree with that? It is an interrogatory put by your own learned Counsel.

A Yes, I agree with that.

Q If that is your view, why did you write these letters expressing this fulsome admiration of Hitler?

A The thing which I wished to have expressed in the interrogatory is the question I wanted to put to the witness. The answers which I wished to have are these--

Q The answers the witness expects are in his question. It is one of the best examples of a leading question I have ever seen. You say that your interrogatory expresses your view, don't you?

A Yes. May I tell you something? This opinion was that with the 30th of June it became apparent that further cooperation with Hitler was no longer possible and that, therefore, the coali tion program which had been agreed upon between us had collapsed.

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Q You say again that you have an unchanged loyalty and admiration and that you have cooperated:

"I remain loyally devoted to you and your work for Germany"

If your view is put in that interrogatory, that the foundations of your faith had been shaken, why do you write that you remain loyally devoted to Hitler's work for Germany?

A I have already told you and the Tribunal that I hoped that, in spite of the collapse of the interior situation, Hitler would at least in foreign political sectors retain a reasonable policy. He was there; I could not remove him. We had to reckon with Hitler and his government. All these gentlemen continued to collaborate, and I was the only one who stepped out. All these letters with which you are trying to prove I am insincere or that I am not truthful, or, as you call it, that I am a liar and a deceiver, are not removing from world the fact that I resigned at that time.

Q And you took another job within eleven days. Eleven days after the last letter you had taken the job of representing this-- Well, I won't way a gang of murderers-- This government which had adopted murder as an instrument of policy, as plenipotentiary to Austria, within eleven days of your last letter.

Let's just see whether the murder motif did not come into that. Did you think that Hitler had been behind the July putsch in Austria which had resulted in the murder of Chancellor Dollfuss

A I knew that Herr Habicht, who had been appointed by him to lead the Austrian Nazi Party, was in connection with this affair, at any rate. That Herr Hitler himself could have approved this act, that was not known to me.

Q Well, did you think that the German Foreign Office had been behind the July putsch?

A The Germany Foreign Office had nothing at all to do with the July putsch.

Q Did you think that Dr. Ried--if I have his name--yes Ried, the German Ambassador in Vienna--did you think that he had been behind the putsch?

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A No, I knew only that Dr. Ried had negotiated with the Austrian government.

Q You did not know that Hitler had been behind it. You deny that the German Foreign Office had been behind it. You did not know that Dr. Ried had been behind it. Just look at page 13 of Document book 11-A. It is pages 79 and 80 of the German book.

Sergeant Major, it is at the foot of page 79.

This is a report, your report a year later. I am taking it slightly out of time because of this sentence where you recapitulate the facts, and if you will look at the paragraph--I think it is the last paragraph on page 79 in the German text.

SIR DAVID MAXWELL-FYFE: My Lord, it is the second last paragraph on page 96 in the document book 11-A.

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BY SIR DAVID MAXWELL FYFE:

Q "The hope that the personal conversation between the Fuehrer and Reich Chancellor and the Head of the Italian State at Stresa would lead to a settlement of German-Italian differences has been changed into the exact opposite by the threatening attitude taken up by Mussolini after the assassinatio of his friend Dollfuss and by the partial mobilization of Italian Corps on the Brenner. It became apparent that the attempt to re-establish normal and friendly relations by sending me to Vienna was not an easy task after what had happened previously. Mistrust of the forcible methods of the Austrian NSDAP"-- now look at the next words -- "influenced, as it became more and more apparent from the past trials, by leading Reich-German personalities, was too strong. The impression caused by the terrorist methods and the death of the Bundeskauslor was too lasting in the widest circles."

Now, defendant, tell the Tribunal, who were the leading German personalities to whom you were referring as supporting the putsch in July 1934 and the murder of Dollfuss? Who were they?

A By no means the former German Ambassador to Vienna, Mr. Ried, but, exclusively, Herr Habicht and the persons who were subordinate, who, at the time, were running the Austrian Nazi policy.

May I point out that it says in this sentence that mistrust of the methods of force employed by the Austrian Nazis had become more and more apparent from past trials, which is a knowledge which we acquired later, not at the time when I was given the task.

Q What I want to know is this. My question was: Who were the leading German personalities? You are not going to tell the Tribunal that Habicht, who was a liaison man with the NSDAP in Austria, was a leading German Reich personality. Who were they? You are not going to say that Austrian Nazis were leading Reich German personalities. Who were they? Who were the leading German personalities that you were talking about?

A The leading personality was no doubt Herr Habicht. But this letter, Mr. Prosecutor, was written to tell Hitler: "Here, look; see what you have done."

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Q Do you seriously want the Tribunal to understand this as a statement on which they will judge your veracity, that by a leading Reich German personality you mean Herr Habicht, and you have no one else in mind although you use the plural? Is that what you want the Tribunal to understand? I don't know if you remember, defendant -- just think of it before you answer -- but General Glaise-Horstenau could not even remember Habicht's name when he was giving his evidence.

You can't seriously mean that you meant a liaison agent with the Austrian NSDAP when you referred to prominent Reich German personalities. Surely you can do better than that.

Think again, and tell the Tribunal whom you had in mind.

A Mr. Prosecutor, Herr Habicht was not an agent. Herr Habicht had been nominated by Hitler as the leader of the Party in Austria, so I am surely justified in calling him a leading personality. If Herr Hitler himself had knowledge of these matters at that time, then when reading my letter he would have known what I was hinting at.

Q Even if I were to allow you Herr Habicht, which I certainly never would, he is only one man. Who were the others? You referred to Reich German personalities. Who were the other people who had been behind this putsch and this murder?

A Quite openly I have to tell you that after 12or 15 years, which have now passed, I can no longer remember which people I might have had in mind when I wrote that. At any rate,it was the purpose of the letter -- and you will appreciate this -- to tell Hitler that the methods which had been employed were doing more damage and were much more incredible than we knew at the time.

Q Well, I will accept it. We will go on from the point that you knew there were some unsepcified, prominent Reich German personalities who had been behind the murder of Dollfuss.

Now, advancing from that, let's consider what you say with regard to Mr. Messersmith. As I understand it, you deny -- if I may say so, with some vigor -- what Mr. Messersmith says regarding you. Therefore, let's just look at what he says and see how much of it you can seriously suggest is not true.

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SIR DAVID MAXWELL FYFE: I think I gave your Lordship the references yesterday. The reference to the affidavit, 1760-PS, is document book 11, and page 22 is the relevant part. The other affidavit, 2385-PS, is 11-A, page 24. This is rather shorter.

BY SIR DAVID MAXWELL FYFE:

Q I think the one that I would like you to look at, defendant, is 1760-PS, and I think it begins on page 3. I want you to come to the bit in the affidavit -- and I am afraid I can't give you the exact German place -- where he deals with yourself.

SIR DAVID MAXWELL FYFE: It is page 22, My Lord.

Q (Continuing) The paragraph begins: "That the policy of Anschluss remained wholly unchanged was confirmed to me by Franz von Papen when he arrived in Vienna as German Minister."

Have you got the passage, defendant?

A No.

Q It was page 12 of the German translation.

A Page 12?

Q Page 12, right in the middle of the page.

A Yes, page 12; I have it.

Q Look and see if you can find the paragraph that begins; "That the policy of Anschluss remained wholly unchanged was confirmed to me by Franz von Papen."

Can you find that? It is about the middle of the page.

A Yes.

Q Now, if you look down a few lines in Mr. Messersmith's statement, he says:

"When I did call on von Papen in the German Legation he greeted me with: 'Now you are in my Legation and I can control the conversation.' In the baldest and most cynical manner he then proceeded to tell me that all of Southeastern Europe, to the borders of Turkey, was Germany's natural hinterland, and that he had been charged with the mission of facilitating German economic and political control over all this region for Germany. He blandly and directly said that getting control of Austria was to be the first step.

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He definitely stated that he was in Austria to undermine and weaken the Austrian Government and from Vienna to work towards the weakening of the Governments in the other states to the South and Southeast. He said that he intended to use his reputation as a Good Catholic to gain influence with certain Austrians, such as Cardinal Innitzer, towards that end. He said that he was telling me this because the German Government was bound on this objective of getting this control of Southeastern Europe and there was nothing which could stop it, and that our own policy and that of France and England was not realistic."

Then Mr. Messersmith says that he told you that he was shocked, and that you merely smiled and said that of course this conversation was between you and Mr. Messersmith, and you would not talk so clearly to other people.

Then he says: "I have gone into this detail with regard to this conversation as it is characteristic of the absolute frankness and directness with which high Nazi officials spoke of their objectives."

Now, you have told the Tribunal that you said nothing like that to Mr. Messersmith. Apart from whether you said to Mr. Messersmith or not, do you deny that these were your aims and intentions?

A Yes; I absolutely deny that my purposes and aims had been those which Mr. Messersmith is describing in his affidavit here.

Q. Now I just want to take these quickly. Would you just refer back to the document you were looking at a short time ago, which is document 2248-PS.

That is page 96, My Lord. It starts there, in 11-A, and I want to pass on to page 97. That is page 81 of the German book.

Now, defendant, this was your view in 1935, if you will look at the beginning of page 81 of the German text.

My Lord, it is the first break in page 97.

"The great historical speech of the Fuehrer on the 21st of May of this year, and later the Naval Treaty, caused a strong detente in the field of foreign policy with regard to England. But the clear and final definition of the attitude of National Socialism to the Soviet Russian doctrine of the State naturally redoubled Franco-Russian attempts to cripple us in the East and Southeast without at the same time achieving a detente in the other direction by clearly renouncing the annexation or incorporation of Austria.

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"Any attempt at a commercial and, even more so, at a political offensive by the newly formed Third Reich in the direction of Southeastern Europe must inevitably come up against a front formed by the whole of Europe"

Who put into your mind the question of a commercial or a political offensive in the direction of Southeastern Europe? Had you discussed that with the defendant von Neurath?

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A No, not at all.

Q Do you think you spoke for yourself?

A Yes, of course. I am making a negative assertion, Sir David, namely that a crippling in the Far Eastern theater would have a considerable effect on the entire Far Eastern situation.

Q You appreciate, Herr von Papen, that I cannot make any comments at the moment. I can merely draw your attention to matters. All that I am asking you is whether you had gotten that idea from, say, the foreign minister, or whether it was your own idea. You say it is your own idea.

Just look on Page 28.

A Yes.

Q Page 28. There is a paragraph -- My Lord, it is the same Page, 97, in the English version -- you go on to say:

"This realistic survey of the European constellation shows immediately that the German-Austrian problem cannot, at least in the near future, be successfully approached from the direction of foreign politics. We must for the time being be content with not allowing Austria's international status to deteriorate for a later solution. In this connecti the danger of a non-intervention pact with bi-lateral treaty of assurance seems to be successfully avoided. The maturing of a solution was and still remains dependent on nothing but the state of German-Austrian relations".

Why were you so afraid of a non-intervention pact, if your idea was that there should only be a revolutionary solution of Austria based on Austria's will? Why were you afraid of a non-intervention pact which would bind the Reich to not interfering in Austria?

A For a very simple reason. All political combinations which the political opponents were making at the time had only one end, that Austria should remain within the constellation, a situation which made it impossible to advance the thought of the Anschluss. For that reason, it had to be our natural political aim, and remain it, that the international status of Austria should not deteriorate, as I have expressed it here.

H0159-0085

Q Yes. That is the answer which I thought you would have to give. Now, just look at Page 83, which is in the very next paragraph:

"The German nation has for centuries had to pursue a real path of suffering, to secure its unity. With the dawn of National-Socialism and the founding of the Third Reich by the final overthrow of all State Particularism, a unique and never to be repeated opportunity seemed to be given to complete Bismarck's work and to bring the problem of the relations between Germany and Austria nearer to a solution, as a dynamic result of internal events in Germany".

I will see if I can put quite shortly what you mean by the completion of this man's work, because I hope we shall not disagree about ancient history, whatever we do about the other. As I understand your view is that this Bismarck's setting up the German Empire in 1881 was merely an attempt at a solution which left the Hapsburg empire separated from Germany, and the final completion of his work was that the old Hapsburg dominions should be brought back with the states which had been in the Holy Roman Empire. Is that roughly the truth?

A Quite right; not allthe Hapsburg dominions, but the German share of Austria.

Q The original Hapsburg domains?

A Yes.

Q Quite right. I hope I am putting it objectively enough.

A Oh, yes.

Q With regard to that,what did you mean by saying that the solution of the relations between Germany and Austria should be brought about by a "dynamic result of internal events in Germany"? What did you mean by that?

A By that I mean the following. Never in Germany's history had it happened that a large party which Germany united had also gained support in Austria. That was a unique historical event. And I wish to state that the type of movement in the two countries which was urging unity showed promise for a solution.

Q You see, Defendant, the difficulty that I want you to explain is thi How do you square an approval of centralizing in Germany with a Nazi government whose unscrupulous message you then knew them after the affairs

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from the 30th of June, 1934 -- how do you square an unscrupulous centralized Germany with an evolutionary solution of the Austrian problem?

That is what that paragraph is saying, you know. What I am suggesting is that it means a much simpler thing than you have told us. It means that you were out to get an annexation of Austria at the earliest opportunity under the National Socialist Reich.

A Yes. Of course, I had to reckon with the existing circumstances, and I did reckon with them, as any realistic politician would. I wanted to attempt with the help of the factors which were available, to come to a solution in the national system in both countries. But I see no contradiction, Sir David. You are saying, how could I achieve my centralizing. But if you would be good enough to look at the end of this report, then you will find that Hitler pronounced this as a decentralization.

Q At the moment, you see, I was really asking you for an explanation of what you meant by the expression "dynamic result of internal events in Germany". In short, I want you to realize, defendant -- I am not going to argue with you, because I ought not to -- the first point of Mr. Messersmith was a question of this action in Southeastern Europe. The second point is that Austria was the first line, the first thing to be dealt with. Now, I wonder if you will be good enough to take the same bundle and turn over to Page 106 which is a report of your own, dated the 18th of October, 1935. I want you to deal with Mr. Messersmith's third suggestion against you, which you deny, that you were going to work in Austria by a weakening of the Regime.

Now I will just read the first sentence so that you will get the point into your mind. The report that I am dealing with is of the 18th of October 1935. You are dealing with the Austrian government re-shuffle, and you are saying -- My Lord, this is a new document. It is BG 502. It is in 11-A, Page 106. It begins:

"Yesterday's cabinet re-shuffle resembles a bloodless insurrection by Prince Starhemberg and the Heimwehr. It becomes clear that Minister Fey heard early of his intended dismissal and that already yesterday afternoon he had the public buildings in Vienna occupied by the Viennese Heimwehr, which is loyal to him. The government countered this measure by simultaneously reinforcing the occupation by police."

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Now you go on to discuss the matter. That is at the beginning of the report. Then, if you turn to the next page, and refer about half way down the page, you say this:

"In spite of the Vice-Chancellor's clear victory and of the diligent efforts of the Austrian Press to make it appear plausible that the cabinet re-shuffle was carried out for reasons of internal consolidation, the feeling of moving towards completely uncertain developments prevails among the Austrian public, including the Heimwehr circles.

"From our point of viewthe change of affairs is only too welcome. Every new weakening of the system is of advantages, even if it at first seems in fact to be directed against us. The fronts are starting to move and it will have to be our task to keep them moving."

Now, defendant, by that it is quite certain, is it not, that you meant that so long as there is political uncertainty or political trouble in the Austrian state, it does not matter whether the move may be an anti-German one so long as the struggle grows with distrust spreading. That was an advantage to Germany, and that is what you want ? That is what these lines mean , is it not ?

A No, not quite.

Q Not quite ?

A If I may, I should like to give you an explanation. Here in this report we are concerned with the Austrian government and the influence of Prince Starhemberg and the Home Guard. Here Starhemberg and the Home Guard had allied with Mussolini against the German Reich. A loosening up of that inner-political front which was working against the interests of a joining together could only be advantageous, in the light of my policy.

Q But what I do not understand is this. You see, you have said, "In spite of the Vice-Chancellor's clear victory and of the diligent efforts of the Austrian Press ..." And you go on to say, "Every new weakening of the system is of advantages". You see, Prince Starhemberg and the Italian party, according to you, had won, because you say "In spite of"... this... "clear victory".

Then you say, "Every new weakening of the system". That could not be Starhemberg's alliance because that had been successful.

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By "the system" you mean the government's of Austria, do you not ? You cannot mean anything else.

SIR DAVID MAXWELL FYFE: My Lord, perhaps I shluld not continue the argument. But it is a somewhat complicated subject.

THE WITNESS: Yes, it is.

THE PRESIDENT: I was thinking that you should perhaps draw attention to the few remaining sentences.

H0159-0089

THE PRESIDENT: Yes. Yes, I think you should p haps draw his attention to the remaining sentences.

SIR DAVID MAXWELL FYFE: Yes, My Lord, certainly I will read on: "The continuation of negotiations for compensation which had renounced since the Geneva declaration seems to be entirely superfluous for the time being. It will be a good thing to strengthen the increasingly excited public feeling against the Italian trend by clever and tactful handling via the Press without, however, giving the Government justifiable cause for having recourse to the desperate measure of starting a new propaganda campaign against us. I would be very grateful if the Reich Minister for Propaganda were to put a few experienced journalists into this work. For the rest, we can confidentially leave further developments to sort themselves out in the near future and I am convinced that the shifting of powers on the European chess board will permit us in the not too distant future to take up actively the question of influencing the southeastern areas."

Extraordinary -- if I may say so -- extraordinary how Mr. Messersmith had got your ideas if you had never had this conversation with him, wasn't it?

My Lord, perhaps this will be a convenient time to adjourn.

THE PRESIDENT: We will adjourn at this time.

THE WITNESS: But may we come back to that question tomorrow?

THE PRESIDENT: Yes.

(The Tribunal adjourned until 19 June 1946, at 1000 hours.)